



High Speed Rail (London - West Midlands) Act 2017

2017 CHAPTER 7

Further high speed rail works

52 Works in Scotland for Phase One purposes

- (1) The Scottish Ministers may make an order relating to the carrying out of works in Scotland for Phase One purposes.
- (2) The following provisions apply in relation to an order under this section as to an order under section 1 of the Transport and Works (Scotland) Act 2007 (asp 8)—
 - (a) section 2 of, and schedule 1 to, that Act (which contain provision about the subject-matter of orders under section 1 of that Act);
 - (b) sections 3 to 10, 11(1), (2) and (4) to (7), 12 to 14, 16 to 21, 23 and 28 of that Act (which contain further provision relating to orders under section 1 of that Act);
 - (c) rules and regulations under that Act;
 - (d) orders under section 12(18) or 18(1) of that Act;
 - (e) section 57(2A) of, and paragraph 16 of Schedule 14 to, the Town and Country Planning (Scotland) Act 1997 (which contain provision relating to deemed planning permission and blighted land).
- (3) References to provisions in subsections (2)(a) to (e) include those provisions as amended at any time by an Act of the Scottish Parliament or an instrument made under such an Act.
- (4) The power conferred by section 2(3)(a) of the Transport and Works (Scotland) Act 2007, as applied by subsection (2), is exercisable in relation to enactments relating to reserved matters without the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.
- (5) In subsection (4), “reserved matters” means matters which are reserved matters for the purposes of the Scotland Act 1998.

- (6) In this Act, references to works authorised by this Act do not include works authorised by an order under this section.

53 Power to apply Act to further high speed rail works

- (1) A Transport and Works Act order which relates to a relevant Phase One matter may apply any provision of this Act, with or without modification, to anything authorised by the order, so far as relating to that matter.
- (2) The following are “relevant Phase One matters”—
- (a) a power exercisable or to be exercisable in connection with the works authorised by this Act,
 - (b) an extension of Phase One of High Speed 2, and
 - (c) any other works carried out or to be carried out for Phase One purposes.
- (3) A Transport and Works Act order which relates to an extension or works referred to in subsection (2)(b) and (c) may also provide for any provision of this Act to have effect as if Phase One of High Speed 2 included the extension or works.
- (4) Section 13(2) of the Transport and Works Act 1992 (power of Secretary of State to refuse application on ground that objects of order sought could be achieved by other means) does not apply where, for purposes relating to the diversion of apparatus belonging to a utility undertaker, an application is made under section 6 of that Act for a Transport and Works Act order in relation to a relevant Phase One matter.
- (5) Subsection (1) does not confer power to apply any of the following—
- section 10(2) and Schedule 13 (extension of time-limit on compulsory acquisition);
 - Schedules 18 and 19 (listed buildings and ancient monuments).
- (6) In this section, “Transport and Works Act order” means an order under section 1 of the Transport and Works Act 1992.

54 Rights of entry for further high speed rail works

- (1) An authorised person may, in connection with a Bill or proposed Bill to authorise works for a high speed railway line in Great Britain, enter any land within 500 metres of the proposed route of the line for the purpose of—
- (a) surveying the land, or
 - (b) facilitating compliance with EU environmental protection legislation.
- (2) A person is authorised for the purposes of subsection (1)—
- (a) in the case of residential land, if the person is authorised by a warrant issued by a justice of the peace (for residential land in England and Wales) or justice of the peace or sheriff (for residential land in Scotland);
 - (b) in the case of any other land, if the person is authorised in writing by the Secretary of State.
- (3) A person may only issue a warrant or give authorisation under subsection (2) if it appears to the person that—
- (a) entry to the land for the purpose proposed is genuinely needed for purposes relating to the construction of the high speed railway line, and

- (b) all reasonable attempts have been made to obtain consent to enter the land.
- (4) The reference in subsection (1) to a proposed Bill is to a Bill proposed in a Command Paper which the Secretary of State has presented to Parliament at any time in the previous five years.
- (5) A right to enter land under subsection (1) includes power—
 - (a) to take samples of anything in or on the land for the purpose for which the right of entry is exercised,
 - (b) to take on to the land such other persons as may be necessary, and
 - (c) to take vehicles and equipment on to the land.
- (6) A right to enter land under subsection (1)(a) also includes power—
 - (a) to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals or other matter in it (subject to section 55), and
 - (b) to place on, leave on and remove apparatus from the land.
- (7) In this section—
 - “EU environmental protection legislation” means any EU instrument relating to—
 - (a) the conservation of habitats, flora and fauna, or
 - (b) the assessment of the effects of projects on the environment;
 - “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 reference in subsection (1) to a high speed railway line in Great Britain does not include one which starts, ends and remains in Scotland.
- (9) For the purposes of subsection (1), distance is to be measured from the centre line of the proposed route.
- (10) The Secretary of State may by order made by statutory instrument—
 - (a) amend subsection (1) so as to substitute a different distance for the distance specified in it;
 - (b) provide, in relation to any class of case, that subsection (1) is to have effect as if a different distance were specified in it.
- (11) A statutory instrument containing an order under subsection (10)(a) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (12) If a draft of an instrument containing an order under subsection (10)(a) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.
- (13) A statutory instrument containing only an order under subsection (10)(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

55 Exercise of rights of entry

- (1) A warrant or other authorisation under section 54 is valid for a period of six weeks beginning with the day on which it is issued or given.
- (2) A right of entry under section 54(1) is exercisable at any reasonable time.
- (3) A person authorised under section 54 to enter any land—
 - (a) must, if so required, produce evidence of the person's warrant or other authorisation, and state the purpose of entry, before entering,
 - (b) may not demand admission as of right to any land which is occupied unless 14 days' notice of the intended entry has been given to the occupier, and
 - (c) must comply with any other conditions subject to which the warrant or other authorisation is given.
- (4) A person who wilfully obstructs another in the exercise of the power under section 54(1) commits an offence; and a person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Where any damage is caused to land or other property—
 - (a) in the exercise of a right of entry conferred by section 54(1), or
 - (b) in the carrying out of a survey for the purposes of which any such right of entry has been conferred,
 compensation may be recovered by any person suffering the damage from the person exercising the right of entry.
- (6) Any dispute as to a person's entitlement to compensation under subsection (5), or as to the amount of compensation, must be determined—
 - (a) in England and Wales, under and in accordance with Part 1 of the Land Compensation Act 1961;
 - (b) in Scotland, by the Lands Tribunal for Scotland (and sections 9 and 11 of the Land Compensation (Scotland) Act 1963 apply).
- (7) No person may carry out works referred to in section 54(6)(a) (searching and boring) unless notice of the person's intention to do so was included in the notice required by subsection (3)(b).
- (8) The authority of the appropriate minister is required for the carrying out of works referred to in section 54(6)(a) if—
 - (a) the land in question is held by statutory undertakers, and
 - (b) they object to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of their undertaking.
- (9) In this section—

“appropriate minister” means—

 - (a) in the case of land in Wales held by a water or sewerage undertaker, the Welsh Ministers,
 - (b) in the case of land in Scotland in respect of which any functions in relation to statutory undertakers have been transferred by or under the Scotland Act 1998 to the Scottish Ministers, the Scottish Ministers, and
 - (c) in any other case, the Secretary of State;

“statutory undertakers” means—

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

- (a) in England and Wales, persons who are, or who are deemed to be, statutory undertakers for the purposes of Part 11 of the Town and Country Planning Act 1990, and
- (b) in Scotland, persons who are, or who are deemed to be, statutory undertakers for the purposes of Part 10 of the Town and Country Planning (Scotland) Act 1997.