



Highways Act 1980

1980 CHAPTER 66

PART XII

ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

Additional provisions with respect to acquisition of rights over land

250 Land acquisition powers to extend to creation as well as acquisition of rights

- (1) A compulsory purchase order made in the exercise of highway land acquisition powers may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence.

In this Act "highway land acquisition powers" means powers in respect of acquisition of land which are exercisable by a highway authority under any of the following provisions of this Act, namely, sections 239, 240, 242 to 246 and 250(2).

- (2) Where rights over land are, or are to be, acquired by a highway authority by means of a compulsory purchase order made in the exercise of highway land acquisition powers, and the land forms part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for those rights, the authority may acquire by agreement or compulsorily that other land; and subsections (1) to (3) of section 247 above apply in relation to this subsection as they apply in relation to the provisions there mentioned.
- (3) In section 247(1) to (4) above references to acquisition of land include references to compulsory acquisition of rights by virtue of this section.
- (4) The Acts of 1946 and 1965 have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of this section as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

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- (5) For the purpose of giving effect to this section, and without prejudice to the general adaptation of enactments under subsection (4) above—
- (a) Part I of Schedule 19 to this Act has effect for the adaptation of Part III of Schedule 1 to the Act of 1946 (requirement of special parliamentary procedure in case of acquisition of certain descriptions of land) to cases of compulsory acquisition of rights;
 - (b) Part II of that Schedule has effect for the adaptation of Part I of the Act of 1965 to such cases; and
 - (c) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.
- (6) References in any enactment or instrument to the acquisition of land, in a context relating to compulsory acquisition under highway land acquisition powers, are to be construed (except in so far as the context otherwise requires) as including references to the compulsory acquisition of a right or rights by virtue of this section.
- (7) The provisions of this section are without prejudice to section 242(3) above, sections 254 and 255 below and any other provision of this Act which, by virtue of the definition of " land " in section 329(1) below, authorises the acquisition of interests in or rights over land.
- (8) References in this section and in sections 251 and 252 below to rights over land include references to the right to do, or to place and maintain, any thing in, on or under land, or in the air-space above its surface.

251 Rights acquired to be binding on successive owners of the land

- (1) Where by a deed or other instrument in which—
- (a) it is stated that it is made in pursuance of a compulsory acquisition of rights by virtue of section 250 above; or
 - (b) it is certified by a highway authority that the instrument is made in connection with the performance of their functions under this Act,
- any person having an interest in the land grants or agrees to grant to a highway authority any right over the land, the grant or agreement is binding upon his successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the grant) to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon such persons apart from this subsection.
- (2) Where by a deed poll under any provision of the Act of 1965 a highway authority vest in themselves any right over land as against some person having an interest in the land, that right is binding upon that person's successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the deed poll) to the same extent as it is, or would have been, binding upon the first-mentioned person.
- (3) The foregoing provisions of this section apply whether or not (apart from this section) the right in question is capable in law of binding interests in the land other than the interest of the grantor or, as the case may be, the person first-mentioned in subsection (2) above.

- (4) Where under any provisions of this Act any right conferred by a deed or other instrument to which subsection (1) or (2) above applies is transferred from one highway authority to another, this section applies after the transfer in relation to the other highway authority as it applied before the transfer to the first-mentioned authority.
- (5) As respects registered land, nothing in this section prejudices the provisions of the Land Registration Acts 1925 to 1971.

252 Power of landowner affected by rights acquisition to compel acquisition of whole interest

- (1) The following provisions have effect where there has come into force a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers and providing for the acquisition of a right over land and notice to treat in respect of the right has been served on a person having an interest in the land.
- (2) A person for the time being entitled to that interest (" the landowner ") may, at any time within 6 weeks of service of the notice to treat, or such longer period as may be agreed in writing by the highway authority, but so long only as the notice has not been withdrawn, serve on the highway authority a counter-notice requiring them, instead of acquiring the right in question, to acquire instead his interest so far as it subsists in the land which is shown in the notice to treat as that over which the right is to be acquired.
- (3) As from the date of service of the landowner's counter-notice—
 - (a) the compulsory purchase order shall, as against the landowner, cease to have effect so far as it authorises the acquisition of the right in respect of which the counter-notice was served and shall have effect instead so as to authorise the authority to acquire compulsorily the landowner's interest in the land referred to in subsection (2) above ; and
 - (b) the notice to treat referred to in subsection (1) above shall be deemed to have been served (on the date on which it was in fact served) in respect of the said interest, instead of in respect of the right (without prejudice to the authority's power under section 31 of the Land Compensation Act 1961 to withdraw the notice).
- (4) Nothing in this section prevents the highway authority from exercising any powers (and, in particular, any power of entry) which they have by virtue of having served notice to treat; and the operation of subsection (3) above does not prejudice any such power of the authority either as respects a previous exercise of it or as respects its continuance by virtue of subsection (3)(b).

253 Agreements as to use of land near highways

- (1) For the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway, the highway authority may enter into an agreement with any person interested in land adjoining or in the vicinity of the highway for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement.

Any such agreement may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.

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- (2) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the highway authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of any agreement made under this section with any person interested in land are binding on persons deriving title from that person in respect of the land.
- (4) An agreement under this section is a local land charge.
- (5) This section is without prejudice to section 52 of the Town and Country Planning Act 1971 (agreements regulating development or use of land).

254 Compulsory acquisition for certain purposes of rights in land belonging to local authorities etc.

- (1) Subject to the provisions of this section, an order made, or made and confirmed, in the like manner and subject to the like conditions as an order authorising compulsory acquisition of land under section 239 above may authorise a highway authority to acquire compulsorily, subject to such conditions (including conditions as to the persons by whom any works are to be constructed or maintained) as may be imposed by the order, a right upon, under or over any land which is the property of a local authority or which has been acquired, for the purposes of their undertaking, by statutory undertakers, if the acquisition is—
 - (a) for the purposes of the construction of a bridge or of the approaches to a bridge (not including the reconstruction or alteration of the bridge or approaches in existence at the date of the order) upon, under or over such land;
 - (b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of the bridge or of the approaches to a bridge transferred to the Minister by virtue of section 266 below or transferred to a special road authority other than the Minister by virtue of section 267 below ; or
 - (c) for the purposes of any system of road drainage;
 and, notwithstanding anything in section 1(2) of the Act of 1946, nothing in paragraph 10 of Schedule 1 to that Act prevents the acquisition of any such right.
- (2) The power to acquire a right compulsorily conferred by subsection (1) above may be exercised—
 - (a) if the acquisition is for a purpose specified in that subsection in connection with a trunk road in a London borough, both by the council of that borough and by the Greater London Council as well as by the Minister, and
 - (b) if the acquisition is for a purpose so specified in connection with any other trunk road, by the council of the county in which the road is situated as well as by the Minister.
- (3) An order authorising the compulsory acquisition of a right under this section shall be made subject to such conditions as the Minister, after consultation with the local authority or statutory undertakers from whom the right is to be acquired, considers necessary for securing—
 - (a) that the bridge or approaches to be constructed, reconstructed or altered, as the case may be, will be so designed, placed and constructed, or so reconstructed or altered, or

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- (b) that the drainage system to be provided will be so designed, placed and constructed,
as to avoid unreasonable interference with the functions and future development of the body concerned.
- (4) An order authorising the compulsory acquisition under this section of a right for the purposes of a system of road drainage shall be made subject to such conditions as the Minister considers necessary for securing that no highway is drained—
 - (a) into any watercourse under the control of an internal drainage board or water authority without the consent of that board or authority, or
 - (b) into any reservoir, river, canal, dock, harbour, basin, culvert, syphon or other work which belongs to or is under the jurisdiction of a local authority or statutory undertakers without the consent of that authority or those undertakers.
- (5) Nothing in this section authorises the compulsory acquisition of a right upon, under or over any land for the purposes of the construction of a bridge under or over the Manchester Ship Canal; but this subsection does not prevent the acquisition of such a right if the acquisition is—
 - (a) for the purposes of the construction of a bridge for which provision is made by any such order as is mentioned in section 106(1) above, or
 - (b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of a bridge transferred to the Minister by virtue of section 266 below.
- (6) For the purposes of this section and section 255 below—
 - " local authority " has the same meaning as in the Act of 1946, and
 - the Civil Aviation Authority and the Post Office are to be deemed to be statutory undertakers.

255 Liability for certain expenses resulting from order under section 254

- (1) Subject to the provisions of this section, an order authorising the compulsory acquisition of a right by a highway authority under section 254 above for a purpose specified in section 254(1)(a) or (b) shall, except so far as may be otherwise agreed, provide that the bridge or approaches to which the order relates is to be constructed, reconstructed or altered, as the case may be, and maintained, at the expense of the highway authority.
- (2) Where an order is made authorising the compulsory acquisition of a right by a highway authority under section 254 above for the purpose of substituting a bridge for a level crossing over a railway, the expenses of the construction and maintenance of the bridge and of the approaches to the bridge shall, subject to subsection (3) below, be defrayed either—
 - (a) wholly by the highway authority, or
 - (b) partly by the highway authority and partly by the person from whom the right is acquired (hereafter in this section referred to as " the railway owners ") as, in default of agreement, may be determined by arbitration.
- (3) Unless otherwise agreed—
 - (a) the railway owners' share of the expenses of such construction and maintenance, except so much of those expenses as is attributable to works

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- executed at the instance of the railway owners for the improvement of their undertaking, shall be an amount equivalent to the saving to the railway owners estimated to result from the substitution of a bridge for the level crossing; and
- (b) any additional expense incurred by the railway owners by reason of any alteration of a railway due to the provisions of the order, other than provisions applied for by the railway owners for the improvement of their undertaking, shall be defrayed by the highway authority.
- (4) Where by virtue of an agreement or award made under subsection (2) above the railway owners are required to contribute to the expenses of a highway authority the contribution shall, at the option of the railway owners, be paid—
- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the railway owners and the highway authority or, in default of agreement, as may be determined by arbitration, or
- (c) by perpetual annual payments of such amount as may be so agreed or determined.
- (5) Where by means of an order authorising a compulsory acquisition under section 254 above a highway authority acquire a right from a local authority or statutory undertakers any additional expense which, in consequence of—
- (a) the construction, reconstruction or alteration of the bridge to which the order relates, or of the approaches to that bridge, or
- (b) the construction of the drainage system to which the order relates,
- is thereafter incurred by the local authority or statutory undertakers in connection with the widening or alteration, on land which was vested in them before the making or confirmation of the order, of any railway, canal, inland navigation, dock, harbour, works or apparatus belonging to them, shall be defrayed by the highway authority.
- (6) Any question whether any such additional expense as is mentioned in subsection (5) above has been incurred as there mentioned, or as to the amount of any such additional expense, shall, in default of agreement, be determined by arbitration.
- (7) An Order authorising the compulsory acquisition of a right by a highway authority under section 254 above for the purposes of a system of road drainage shall, except so far as may be otherwise agreed, provide that the system is to be constructed and maintained at the expense of the highway authority.