



High Speed Rail (London - West Midlands) Act 2017

2017 CHAPTER 7

Compulsory acquisition of land

4 Power to acquire land compulsorily

- (1) Subject to subsection (6), the Secretary of State may acquire compulsorily so much of the land within the Act limits as may be required for Phase One purposes.
- (2) Schedule 5 contains provision about the particular purposes for which land within the limits of land to be acquired or used may be acquired under subsection (1).
- (3) Part 1 of the Compulsory Purchase Act 1965, so far as not inconsistent with this Act, applies to an acquisition of land under subsection (1)—
 - (a) as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land Act 1981 applies, and
 - (b) as if this Act were a compulsory purchase order under that Act.
- (4) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Act were a compulsory purchase order.
- (5) Schedule 6 contains further provision about the application of compulsory purchase legislation.
- (6) This section does not apply to Plot 91 or 91a in the Parish of Bickenhill in the Metropolitan Borough of Solihull, as shown on the deposited plans and in the deposited book of reference.
- (7) In subsection (6), “the deposited book of reference” means the book deposited in November 2013 in connection with the High Speed Rail (London - West Midlands) Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons.

5 Acquisition of rights in land

- (1) The power under section 4(1) includes power to acquire such easements or other rights over land to which the power relates as may be required for Phase One purposes, by—
 - (a) creating new easements or other rights, or
 - (b) acquiring easements or other rights already in existence.
- (2) The terms of an easement created under subsection (1)(a) may include terms imposing a restrictive covenant for the purpose of making the easement effective.
- (3) In the case of land specified in the table in Schedule 7, the power under section 4(1) also includes power to impose restrictive covenants over the land for the purposes specified in relation to the land in column (3) of the table.
- (4) In the case of land specified in the table in Schedule 8, the power under section 4(1) may be exercised only so as to acquire rights for purposes specified in relation to the land in column (3) of the table.
- (5) The Secretary of State may by order provide that section 4(1), so far as relating to compulsory acquisition by virtue of this section, is to be treated as also authorising acquisition of rights or imposition of restrictive covenants by such person as may be specified in the order.
- (6) The power to make an order under subsection (5) includes power to make an order varying or revoking any order previously made under that subsection.
- (7) Schedule 9 contains provision about the application of compulsory purchase legislation to a compulsory acquisition by virtue of this section.

6 Acquisition of part of land

- (1) The provisions of Schedule 10 apply instead of section 8(1) of the Compulsory Purchase Act 1965 where—
 - (a) a notice to treat under Part 1 of the Compulsory Purchase Act 1965, as applied by section 4(3) to the acquisition of land under section 4(1), is given in respect of land forming part only of a house, building or manufactory or part only of land consisting of a house with a park or garden, and
 - (b) a copy of this section and Schedule 10 is given with the notice to treat.
- (2) Nothing in this section or Schedule 10 applies in relation to a compulsory acquisition under section 4(1) by virtue of section 5 (acquisition of rights or imposition of restrictive covenants).

7 Acquisition of airspace

- (1) The power under section 4(1) in relation to land may be exercised in relation to the airspace over the land only.
- (2) The following do not apply in connection with the exercise of the power under section 4(1) in relation to airspace only—
 - (a) section 8(1) of the Compulsory Purchase Act 1965 (limitation on right to require person to sell part only of any house, building, manufactory or park or garden belonging to a house);

- (b) Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration).

8 Acquisition of subsoil or under-surface

- (1) The power under section 4(1) in relation to land may be exercised in relation to the subsoil or under-surface of the land only.
- (2) The following do not apply in connection with the exercise of the power under section 4(1) in relation to subsoil or under-surface only—
 - (a) section 8(1) of the Compulsory Purchase Act 1965 (limitation on right to require person to sell only part of a house, building, manufactory or park or garden belonging to a house);
 - (b) Schedule 1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration).
- (3) Subsection (2) is to be disregarded where the power under section 4(1) is exercised in relation to a cellar, vault, arch or other construction forming part of a house, building or manufactory.
- (4) Schedule 11 contains provision which in certain cases restricts the power under section 4(1)—
 - (a) to the subsoil or under-surface of land, or
 - (b) to the subsoil or under-surface of land and rights of passage.

9 Highway subsoil

- (1) The nominated undertaker may enter upon, take and use for the purposes of the works authorised by this Act so much of the subsoil of any highway within the Act limits as is required for the purposes of the construction or maintenance of those works, without being required to acquire that subsoil or any interest in it.
- (2) Subsection (1) does not apply in relation to any cellar, vault, arch or other construction in, on or under a highway which forms part of a building fronting on to the highway.
- (3) In the case of land specified in the table in Schedule 12—
 - (a) the power under subsection (1) is not exercisable in relation to the subsoil of a highway comprised in the land, and
 - (b) the power under section 4(1) is not exercisable in relation to the land so far as the surface of the land is comprised in a highway.
- (4) Subsection (3)(b) does not restrict the exercise of the power under section 4(1) in relation to a cellar, vault, arch or other construction in, on or under a highway which forms part of a building fronting on to the highway where—
 - (a) the building is within the Act limits, and
 - (b) the power under section 4(1) is exercisable in relation to the building.
- (5) In the case of a highway comprised in land specified in the table in paragraph 1 of Schedule 11, the power under subsection (1) is exercisable only in relation to so much of the subsoil of the highway as lies more than 9 metres beneath the level of the surface of the highway.

- (6) The restrictions imposed by subsections (3) and (5) on the power under subsection (1) do not affect the power under paragraph 7(1) of Schedule 4 (power of nominated undertaker to enter upon highway to carry out certain street works).
- (7) The nominated undertaker must compensate any person who—
 - (a) is an owner or occupier of land in respect of which the power under subsection (1) is exercised, and
 - (b) suffers loss by the exercise of that power.
- (8) Any dispute as to a person's entitlement to compensation under subsection (7), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (9) Compensation is not payable under subsection (7) to any person who is an undertaker to whom section 85 of the New Roads and Street Works Act 1991 applies (sharing of cost of necessary measures) in respect of measures of which the allowable costs are to be borne in accordance with that section.

10 Termination of power to acquire land

- (1) After the end of the period of 5 years beginning with the day on which this Act is passed—
 - (a) no notice to treat may be served under Part 1 of the Compulsory Purchase Act 1965, as applied by section 4(3) to the acquisition of land under section 4(1), and
 - (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by section 4(4) to the acquisition of land under section 4(1).
- (2) The Secretary of State may by order extend the period under subsection (1) in relation to any land, but may only do so—
 - (a) once, and
 - (b) by not more than 5 years.
- (3) An order under subsection (2) is subject to special parliamentary procedure (as to which, see the Statutory Orders (Special Procedure) Act 1945).
- (4) Schedule 13 contains provision about a right to require acquisition where an order is made under subsection (2).

11 Amendments consequential on the Housing and Planning Act 2016

Schedule 14 contains amendments to this Act that are consequential on provision made by Part 7 of the Housing and Planning Act 2016 (compulsory purchase).