
STATUTORY INSTRUMENTS

1999 No. 2129

The Welsh Highland Railway Order 1999

PART III

ACQUISITION AND POSSESSION OF LAND

Power to acquire land

14.—(1) Subject to article 16(8) below, the undertaker may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation for the scheduled works shown on the deposited plans and described in the book of reference as may be required for the purposes of the authorised works, and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its railway undertaking.

(2) Nothing in this Order shall authorise the undertaker to acquire compulsorily land belonging to the National Trust which is held by the Trust inalienably under section 21 of the National Trust Act 1907⁽¹⁾ or section 8 of the National Trust Act 1939⁽²⁾.

Application of Part I of Act of 1965

15.—(1) Part I of the Act of 1965, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981⁽³⁾ applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the Act of 1965, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
 - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month; or
 - (ii) in any other case, a reference to notice of 3 months.

(3) Schedule 5 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under article 14 above of a right over land by the creation of a new right, including a public right of way.

(1) 1907 c.cxxxvi.
(2) 1939 c.lxxxvi.
(3) 1981 c. 67.

Temporary use of land for construction of works

16.—(1) The undertaker may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 6 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land.

(2) Where possible not less than 3 months, and in any case not less than 28 days before entering upon and taking temporary possession of land under paragraph (1) above, the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker shall give up possession of land of which temporary possession has been taken under this article as soon as practicable after the date of completion of the work or works specified in relation to that land in column (4) of Schedule 6 to this Order, but may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with that date.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961(4).

(7) Without prejudice to article 42 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the Act of 1965 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 (5) above.

(8) In respect of the land specified in columns (1) and (2) of Schedule 6 to this Order, the undertaker shall not exercise the powers of compulsory acquisition under article 14 above but may acquire new rights over any part of that land.

(9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) In this article "building" includes structure or any other erection.

Rights under or over streets

17.—(1) The undertaker may enter upon and appropriate so much of the subsoil or surface of, or air-space over, any street shown on the deposited plans and described in the book of reference as may be required for the purposes of the authorised works and may use the subsoil, surface and air-space for those purposes or any other purposes connected with or ancillary to its undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street.

(3) The undertaker shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) above where the street is a highway; but where the street is not a highway

(4) 1961 c. 33.

any person suffering loss by the exercise of that power shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

- (4) Paragraphs (2) and (3) above shall not apply in relation to—
- (a) any subway or underground building; or
 - (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting on to the street.

Extinction of rights of way

18.—(1) Subject to the provisions of this Order, the undertaker may stop up so much of any footpath or bridleway as lies between—

- (a) the points marked “A”, “B” and “C” on the deposited plans and may substitute therefor a public footpath between those points and create a public bridleway between the points marked “C” and “CC” on the deposited plans;
- (b) the points marked “L”, “E” and “F” on the deposited plans;
- (c) the points marked “D” and “E” on the deposited plans and may substitute therefor a new public footpath between the points marked “D” and “F” in the position shown on the deposited plans;
- (d) the points marked “G” and “H” on the deposited plans and may substitute therefor a new public bridleway between the points marked “G”, “K” and “I” in the position shown on the deposited plans;
- (e) the points marked “jj” and “mm” on the deposited plans and may substitute therefor a new public footpath between the points marked “jj”, “nn” and “mm” in the position shown on the deposited plans;
- (f) the points marked “J” and “M” on the deposited plans and may substitute a public footpath between the points marked “J” and “M”, following the adjacent route marked “Path (um)” on the deposited plans;
- (g) the points marked “N”, “P”, “Q”, “R” and “S” on the deposited plans and may substitute therefor public footpaths between the points marked “N”, “P” and “Q”, between the points marked “R” and “S” and the points marked “Q” and “R”; and
- (h) the points marked “T” and “W” on the deposited plans and may substitute therefor a new public footpath on the north-west side of the railway.

(2) The undertaker shall not stop up any footpath or bridleway referred to in paragraphs (a) or (c) to (h) above until the substitute public footpath or bridleway in question has been completed to the reasonable satisfaction of the highway authority and is open for use.

(3) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or
- (b) on the entry on the land by the undertaker under section 11(1) of the Act of 1965,

whichever is the sooner.

(4) Any person who suffers loss by the extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990(5) (extinguishment of rights of statutory undertakers, etc.) applies.

Time limit for exercise of powers of acquisition

19. The powers conferred by this Order to acquire land or rights over land compulsorily shall cease at the end of the period of 5 years beginning with the day on which this Order comes into force.