
STATUTORY INSTRUMENTS

1999 No. 537

**The Channel Tunnel Rail Link
(Boarley Lane Diversion) Order 1999**

PART III

ACQUISITION OF LAND

Power to acquire land

5. The Secretary of State may acquire compulsorily so much of the land shown on the deposited plan within the Order limits as may be required for or in connection with the authorised works.

Application of Compulsory Purchase Act 1965 and Compulsory Purchase (Vesting Declarations) Act 1981

6.—(1) Part I of the 1965 Act, so far as not inconsistent with this Order, shall apply to an acquisition of land under article 5 above as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land Act 1981(1) applies and as if this Order were a compulsory purchase order under that Act.

(2) In its application by virtue of paragraph (1) above, the 1965 Act shall have effect with the following modifications—

- (a) section 4 (time limit for exercise of powers of compulsory purchase) shall be omitted;
- (b) section 11(1) (power to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice) shall have effect—
 - (i) in a case where the notice to treat relates only to the acquisition of subsoil or under-surface of land or an easement or other right over land, with the substitution for “fourteen days” of “one month's”, and
 - (ii) in any other case, with the substitution for “fourteen days” of “3 months”;
- (c) in Schedule 3 (alternative procedure for obtaining right of entry), paragraph 3(3) (requirement as to sureties in relation to bond for compensation) shall be omitted.

(3) The Compulsory Purchase (Vesting Declarations) Act 1981(2) shall apply as if this Order were a compulsory purchase order.

(4) In its application by virtue of paragraph (3) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications—

- (a) in section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

(1) 1981 c. 67.
(2) 1981 c. 66.

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and
- (b) published in the London Gazette.”;
- (b) in that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”, and after “given” there shall be inserted “and published”;
- (c) in that section, subsections (5) and (6) shall be omitted and for those subsections there shall be substituted—
 - “(5) For the purposes of this section, a person has a relevant interest in land if—
 - (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
 - (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”;
- (d) in section 5 (earliest date for execution of declaration)—
 - (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette”, and
 - (ii) subsection (2) shall be omitted;
- (e) in section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted;
- (f) references to the Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 5 above.

Acquisition of new rights

7.—(1) The power conferred by article 5 above shall include, in relation to any land to which the power relates, power to create and acquire such easements or other rights over land as may be required as mentioned in that provision instead of acquiring the land itself.

(2) Part I of the 1965 Act as applied to the acquisition of land under article 5 above, and the enactments relating to compensation for the compulsory purchase of land, shall apply to a compulsory acquisition by virtue of paragraph (1) above—

- (a) with the modifications specified in Schedule 2 to this Order, and
- (b) with such other modifications as may be necessary.

(3) In relation to land to which this paragraph applies, article 5 above, so far as relating to acquisition by virtue of paragraph (1) above, shall be treated as also authorising acquisition by a statutory utility in any case where the Secretary of State gives his consent in writing to that acquisition.

(4) Paragraph (3) above applies to land within the Order limits which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works; and in that paragraph “statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989⁽³⁾, a public gas transporter within the meaning of Part I of the Gas Act 1986⁽⁴⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽⁵⁾, a sewerage undertaker within Part II of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

(3) 1989 c. 29.

(4) 1986 c. 44.

(5) 1991 c. 56.

Compensation for injurious affection

8. Section 10(1) of the 1965 Act (compensation for injurious affection) shall have effect, in relation to land injuriously affected by the execution of works under this Order, with the substitution for “acquiring authority have” of “Eurostar has”.

Acquisition and use of subsoil of highway

9. Eurostar may enter upon, take and use for the purposes of the authorised works so much of the subsoil of any highway within the Order limits as shall be required for the purpose of the construction or maintenance of those works, without being required to acquire that subsoil or any interest therein.

Temporary occupation of certain land

10.—(1) Eurostar may, in connection with the diversion or alteration of Boxley 132kV overhead electric cable (PN) in the County of Kent, Borough of Maidstone, Parish of Boxley, pursuant to paragraph 1(1) or 3 of Schedule 2 to the principal Act, enter upon and take possession of the land in that Parish within the limit of land to be temporarily occupied shown on the deposited plan in order to provide working space and to enable the temporary lowering or disconnection of the cable and other operations to facilitate the diversion or alteration.

(2) Not less than 28 days before entering upon and taking possession of land under this article, Eurostar shall give notice to the owners and occupiers of the land of its intention to do so.

(3) Eurostar may not remain in possession of any land under this article after the end of the period of one month beginning with the date of completion of the diversion or alteration work unless the owners of the land agree otherwise.

(4) All private rights of way over land of which Eurostar takes possession under this article shall be suspended and unenforceable for as long as it remains in lawful possession of the land.

(5) Eurostar shall pay compensation to the owners and occupiers of land of which possession is taken under paragraph (1) above for any loss which they may suffer by reason of the exercise in relation to the land of the powers conferred by that paragraph, and to any person who suffers loss by the suspension of a right under paragraph (4) above.

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

(7) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act, as applied to the acquisition of land under article 5 above or section 4(1) of the principal Act, or under any other enactment, otherwise than for loss for which compensation is payable under paragraph (5) above.

(8) If a licence holder within the meaning of Part I of the Electricity Act 1989 carries out the diversion or alteration of the said overhead electric cable in connection with or to facilitate the construction of the works authorised by the principal Act and the Secretary of State consents in writing, that licence holder may exercise the powers exercisable by Eurostar under this article; and if the licence holder does so exercise those powers, paragraphs (2) to (7) above shall apply to the licence holder accordingly.

Time limit for powers of compulsory acquisition

11. After the end of the period of 5 years beginning with the day on which this Order is made—

(6) 1961 c. 33.

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

- (a) no notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 5 above;
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 6(3) above.