
STATUTORY INSTRUMENTS

2005 No. 2222

The River Tyne (Tunnels) Order 2005

PART 3

ACQUISITION AND POSSESSION OF LAND

Supplementary

Use of subsoil

32.—(1) The undertaker may enter upon, take and use so much of the subsoil of any street within the limits of deviation or within the land the subject of article 21(1) as may be required for the purpose of the construction or maintenance of the authorised works without being required to acquire that subsoil or any right therein.

(2) The power under paragraph (1) 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) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land and who suffers 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⁽¹⁾.

(4) Paragraph (2) shall not apply to—

- (a) any subway or underground building; or
- (b) any cellar, vault, basement, arch or other construction in or on a street which forms part of a building fronting onto, or abutting or lying under, the street.

(5) Compensation shall not be payable under paragraph (3) to any person who is a statutory undertaker to whom section 85 of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.

⁽¹⁾ 1961 c. 33.