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STATUTORY INSTRUMENTS

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**2005 No. 2222**

**The River Tyne (Tunnels) Order 2005**

**PART 3**

ACQUISITION AND POSSESSION OF LAND

*Powers of acquisition*

**Power to acquire land**

**21.**—(1) The undertaker may acquire compulsorily so much of the land shown on the land plans within the limits of land to be acquired or used and described in the book of reference as may be required for the purpose of or in connection with the authorised works and may use any land so acquired for those purposes or for purposes in connection with or ancillary to its undertaking.

(2) This article is subject to articles 25(2) and 27(8).

**Application of Part I of the Compulsory Purchase Act 1965**

**22.**—(1) Part I of the 1965 Act, 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 and, in respect of section 10 of the 1965 Act, to the appropriation of any land owned or acquired by the undertaker (including land acquired by agreement)—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, 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.

**Power to acquire new rights**

**23.**—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 21 as may be required for any purpose for which that land

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(1) 1981 c. 67.

may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 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 this article of a right over land by the creation of a new right.

### **Power to acquire subsoil only**

**24.**—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1) of article 21 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1) the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent section 8 of the 1965 Act or article 30 from applying where the undertaker acquires a cellar, vault, arch, basement or other construction forming part of a house, building or factory.

### **Cases where powers of acquisition limited to subsoil**

**25.**—(1) The article applies to the land specified in Schedule 6 to this Order.

(2) In the case of land to which this article applies, the undertaker’s powers of compulsory acquisition under article 21 shall be limited to the acquisition of, or of rights in, so much of the subsoil as may be required for the purposes of the authorised works.

(3) Where the undertaker acquires any part of, or rights in, the subsoil of the land to which this article applies, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

### **Vesting declarations**

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

(2) In its application by virtue of paragraph (1), the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

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

- (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* and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

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(2) 1981 c. 66.

(5) In that section, subsections (5) and (6) shall be omitted and at the end 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.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in *The London Gazette* or in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) 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.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 21(1).