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STATUTORY INSTRUMENTS

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**2005 No. 8**

The East Midlands Parkway Station  
(Land Acquisition) Order 2005

PART 2

ACQUISITION AND POSSESSION OF LAND

*Supplementary*

**Acquisition of part of certain properties**

**8.—**(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 4) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”), and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Company a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the Company agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

(a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice, but

(b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the Company agrees to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and

(b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Company is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Company may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the Company shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

### **Extinction or suspension of rights affecting land**

**9.—**(1) All private rights, easements, covenants and licences over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the Company, whether compulsorily or by agreement, or

(b) on the entry on the land by the Company under section 11(1) of the 1965 Act,

whichever is sooner.

(2) All private rights, easements, covenants and licences over land of which the Company takes temporary possession under this Order shall be suspended and unenforceable for as long as the Company remains in lawful possession of the land.

(3) Any person who suffers loss by the extinguishment or suspension of any private right, easement, covenant or licence under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

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

### **Time limit for exercise of powers of acquisition**

**10.**—(1) No notice to treat shall be served under Part I of the 1965 Act as applied to the acquisition of land by article 4 after the end of the period of 5 years beginning with the day on which this Order comes into force.

(2) The powers conferred by article 6 shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the Company remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

### **Acquisition: supplementary matters**

**11.**—(1) Parts II and III of Schedule 2 to the Acquisition of Land Act 1981<sup>(1)</sup> (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to land to which article 3 applies as if it were comprised in a compulsory purchase order providing for the incorporation with that order of those parts of that Schedule.

(2) In their application by virtue of paragraph (1), Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 shall have effect as if references in those Parts to “the undertaking” were references to the Company’s railway undertaking.

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(1) 1981 c. 67.