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STATUTORY INSTRUMENTS

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**2008 No. 1238**

**The Teesport (Land Acquisition) Order 2008**

PART 2

ACQUISITION AND POSSESSION OF LAND

**Power to acquire land**

3.—(1) Subject to paragraph (2), the Company may acquire compulsorily—

- (a) so much of the land shown coloured pink and edged black on the land plans and described in the book of reference; or
- (b) such estates, interests, easements, or other rights in or over the land, as may be required for, or in connection with, the Northern Gateway Container Terminal,

and may use any land so acquired for, or in connection with, the Northern Gateway Container Terminal or for any other purposes ancillary to the undertaking.

(2) The Company shall not under the powers of this Order acquire compulsorily any interest held by BOC Limited in the land numbered 10 on the land plans.

(3) This article is subject to article 6 (temporary use of land for construction of works).

**Application of Part 1 of the Compulsory Purchase Act 1965**

4.—(1) Part 1 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—

- (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 1 of the 1965 Act, as so applied, shall have effect as if 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.

**Power to acquire new rights**

5.—(1) The Company may acquire compulsorily such easements or other rights over any land referred to in paragraph (1) of article 3 (power to acquire land) as may be required for any purpose for which that land 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 1), where the Company acquires a right over land under paragraph (1) it shall not be required to acquire a greater interest in that land.

(3) Schedule 1 (modification of compensation and compulsory purchase enactments for creation of new rights) shall have effect for the purpose of modifying the enactments relating to compensation

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(1) 1981 c. 67.

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.

### **Temporary use of land for construction of works**

6.—(1) The Company may, in connection with the construction of the Northern Gateway Container Terminal—

- (a) enter upon and take temporary possession of the land numbered 1a shown coloured pink and edged black on the land plans and described in the book of reference for the purpose of constructing Work No. 1 authorised by the Teesport Harbour Revision Order 2008;
- (b) remove any equipment and apparatus (including a conveyor) from that land; and
- (c) construct temporary works (including the provision of means of access) on that land.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the Company shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The Company 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 the date of completion of the work specified in relation to that land in paragraph (1)(a).

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

(5) The Company 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), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Without prejudice to article 13 (no double recovery), nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act 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).

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) except that the Company shall not be precluded from acquiring new rights over any part of that land under article 5 (power to acquire new rights).

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

(10) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 4(1) (application of Part 1 of the Compulsory Purchase Act 1965).

### **Disregard of certain interests and improvements**

7.—(1) In assessing the compensation payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land, or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1), “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### **Extinction or suspension of private rights of way**

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

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

whichever is the sooner.

(2) All private rights of way over land owned by the Company which, being within the limits of land which may be acquired shown on the land plans, are required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the Company.

(3) All private rights of way 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.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(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(2) (extinguishment of rights of statutory undertakers etc.) applies.

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

**9.—(1)** After the end of the period of 5 years beginning with the day on which this Order comes into force, no notice to treat shall be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 4 (application of Part 1 of the Compulsory Purchase Act 1965).

(2) The powers conferred by article 6 (temporary use of land for construction of works) 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.

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(2) 1990 c. 8.