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STATUTORY INSTRUMENTS

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**2008 No. 1261**

The London Gateway Port Harbour Empowerment Order 2008

PART 4

ACQUISITION OF LAND

**Power to acquire land**

**28.**—(1) Subject to paragraph (3) the Harbour Authority may acquire compulsorily so much of the land shown washed pink on Sheets Nos. 273 to 291 of the deposited plans and described in Schedule 12 as may be required for the purposes of the authorised works.

(2) The Harbour Authority may use any land so acquired for the purposes of the authorised works or for the purposes of the undertaking or for any other purpose connected with or ancillary to the undertaking, whether such use is by the Harbour Authority alone or jointly with any other person who has an interest in the land.

(3) The Harbour Authority shall not acquire an interest in the land referred to in paragraph (1) greater than that necessary to enable the Harbour Authority to use the land for the purposes mentioned in this article.

(4) In this article—

- (a) “land” includes any interest in land; and
- (b) “required” means required by the Secretary of State or any other public authority in connection with, or as a condition of, the authorisation of the authorised work.

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**Commencement Information**

**II** Art. 28 in force at 16.5.2008, see [art. 1](#)

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

**29.**—(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—

- (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

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(1) 1981 c. 67.

- (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 a reference to notice of 3 months.

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**Commencement Information**

**I2** Art. 29 in force at 16.5.2008, see [art. 1](#)

**Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

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

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1) 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 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”.

(5) In that section, for subsections (5) and (6) 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 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 29 (application of Part 1 of the Compulsory Purchase Act 1965).

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**Commencement Information**

**I3** Art. 30 in force at 16.5.2008, see [art. 1](#)

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

**31.**—(1) In assessing the compensation (if any) 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.

#### **Commencement Information**

**I4** Art. 31 in force at 16.5.2008, see [art. 1](#)

### **Extinction of private rights of way**

**32.**—(1) All private rights of way over, and any other third party rights in land subject to compulsory acquisition under this Order, shall be extinguished from the sooner of—

- (a) the acquisition of the land by the Harbour Authority, whether compulsorily or by agreement, or
- (b) the entry on the land by the Harbour Authority under section 11(1) of the 1965 Act.

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

(3) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

#### **Commencement Information**

**I5** Art. 32 in force at 16.5.2008, see [art. 1](#)

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

**33.**—(1) Subject to paragraph (2), after the end of the period of 10 years beginning with the day on which this Order comes into force—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act, as applied to the acquisition of land under article 29 (application of Part 1 of the Compulsory Purchase Act 1965); and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) In relation to the mitigation land, after the end of the period of 3 years beginning with the day on which this Order comes into force—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act, as applied to the acquisition of land under article 29 (application of Part 1 of the Compulsory Purchase Act 1965); and

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**Changes to legislation:** There are currently no known outstanding effects for the The London Gateway Port Harbour Empowerment Order 2008, PART 4. (See end of Document for details)

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- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

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**Commencement Information**

**I6** Art. 33 in force at 16.5.2008, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The London Gateway Port Harbour Empowerment Order 2008, PART 4.