
STATUTORY INSTRUMENTS

2012 No. 1867

The Ipswich Barrier Order 2012

PART 4

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

21. The Agency may acquire compulsorily so much of the land shown on the land plans as land to be acquired compulsorily and described in the book of reference as may be required for the purposes of the scheduled works and may use any land so acquired for those purposes or for any other purposes that are ancillary to the scheduled works.

Application of Part 1 of the Compulsory Purchase Act 1965

22.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies 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 applied by paragraph (1), has 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.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

23.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(2) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(1) 1981 c. 67.
(2) 1981 c. 66.

(3) In section 3 (preliminary notices), for subsection (1) there is 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 must 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 is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person 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 is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is 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)” is omitted.

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

Power to acquire new rights

24.—(1) The Agency may compulsorily acquire such easements or other rights over any land referred to in article 21 (power to acquire land) as may be required for any purpose for which that land may be acquired under that article, 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 3 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the Agency acquires a right over land under paragraph (1) the Agency cannot be required to acquire a greater interest in that land.

(3) Schedule 3 has 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.

(4) In relation to land to which this paragraph applies, article 21, so far as relating to the acquisition or creation of easements or other rights by virtue of paragraph (1) is to be treated as also authorising acquisition by a statutory utility in any case where the Secretary of State gives consent in writing.

(5) Paragraph (4) applies to land to which article 21 applies and which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works.

Power to acquire subsoil only

25.—(1) The Agency may compulsorily acquire so much of, or such rights in, the subsoil of the land referred to in article 21 (power to acquire land) 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 Agency acquires any part of, or such rights in, the subsoil of land under paragraph (1) it cannot be required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 31 (acquisition of part of certain properties) from applying where the Agency acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

New rights only to be acquired in certain lands

26. In the case of the land specified in columns (1) and (2) of Schedule 4 (acquisition of new rights only), the Agency's powers of compulsory acquisition under article 21 (power to acquire land) are limited to the acquisition of such easements or other new rights in the land as it may require for the purposes specified in relation to that land in column (3) of that Schedule.