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STATUTORY INSTRUMENTS

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**2013 No. 1967**

**The Croxley Rail Link Order 2013**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Supplementary*

**Acquisition of part of certain properties**

**27.**—(1) This article applies instead of section 8(1) of the 1965 Act (as applied by article 17 (application of Part 1 of the 1965 Act)) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as applied) in respect of land forming only part of a house, building or manufactory 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 Council a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner 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 must 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 must sell only the land subject to the notice to treat is, unless the Council agrees to take the land subject to the counter-notice, to 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 must 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 is 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 is 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 Council is authorised to acquire compulsorily under this Order.

(8) If the Council 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 is 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 Council 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 Council 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 must pay the owner compensation for any loss or expense occasioned to the owner 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 manufactory or of land consisting of a house with a park or garden, the Council must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

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

**28.—**(1) Subject to paragraph (6), all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

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

whichever is the sooner.

(2) Subject to paragraph (6), all private rights of way over land owned by the Council which, being within the limits of land which may be acquired on the deposited plans, is required for the purposes of this Order are extinguished on the appropriation of the land for any of those purposes by the Council.

(3) Subject to paragraph (6), all private rights of way over land of which the Council takes temporary possession under this Order are suspended and unenforceable for as long as the Council 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 is 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 1990 Act (extinguishment of rights of statutory undertakers etc.), paragraph 2 of Schedule 8 (provisions relating to statutory undertakers etc.) or paragraph 18(3) or 55(7) of Schedule 9 (protective provisions) applies.

(6) Paragraphs (1), (2) and (3) have effect subject to—

(a) any notice given by the Council before—

- (i) the completion of the acquisition of;
- (ii) the Council's appropriation of;
- (iii) the Council's entry onto; or
- (iv) the Council's taking temporary possession of,

the land, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement which makes reference to this article made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) between the Council and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is mentioned in sub-paragraph (6)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

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

**29.**—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 17 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(1) as applied by article 18 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 23 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), but nothing in this paragraph prevents the Council 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.

### **Access to Cinnamond House**

**30.**—(1) Unless otherwise agreed with the owner for the time being of the protected property, the Council must not stop up the existing access from the highway to the protected property unless it has provided a new vehicular access to the retained land from the highway and granted a right of vehicular access over it in perpetuity.

(2) In this article—

“the protected property” means the land and premises at Cinnamond House on Baldwins Lane of which part is included in plots 15 and 16 on the deposited plans; and

“the retained land” means so much of the protected property as is not acquired under the powers conferred by the Order.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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