
STATUTORY INSTRUMENTS

2013 No. 3244

**The Ashton Vale to Temple Meads and
Bristol City Centre Rapid Transit Order 2013**

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

23.—(1) Subject to paragraph (2) the promoter may acquire compulsorily so much of the land shown on the works and land plans as lying within the permanent limits as may be required for the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its transport systems undertakings.

(2) The promoter may exercise powers under this article and article 26 (power to acquire new rights) in respect of either—

- (a) any or all of the land comprised in plots numbered 01A/01, 01A/02, 01A/03, 01A/04, 01A/05, 01A/06, 01A/07, 01A/08, 01A/09, 01A/11, 01A/12, 01A/13, 01A/14, 02A/01, 02A/04, 04A/01, 04A/04, 04A/05, 04A/06, 04A/07, 04A/08 and 04A/09 on the works and land plans (“land required for Work No. 1A”); or
- (b) any or all of the land comprised in plots numbered 01B/01, 01B/02, 01B/03, 01B/04, 01B/05, 01B/06, 01B/07, 01B/08, 01B/09, 01B/10, 01B/11, 01B/12, 02B/01, 04B/01, 04B/04, 04B/05, 04B/06, 04B/07, 04B/08 and 04B/09 on the works and land plans (“land required for Work No. 1B”),

but must not acquire land required for Work No. 1A and land required for Work No. 1B.

Application of Part 1 of the 1965 Act

24.—(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, has 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.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

25.—(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.

(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 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)” are omitted.

(8) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 24 (application of Part 1 of the 1965 Act).

Power to acquire new rights

26.—(1) Subject to article 23(2) (power to acquire land) the promoter may compulsorily acquire such easements or other rights over any land within the permanent limits as may be required for any purpose for which that land may be acquired, 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 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the promoter acquires a right over land under paragraph (1) the promoter is not required to acquire a greater interest in that land.

(3) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application to the compulsory acquisition under this article of a right over land by the creation of a new right.

Rights under or over streets

27.—(1) The promoter may enter upon and appropriate so much of the surface, subsoil of, or air space over, any street shown on the works and land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air space for those purposes or any other purpose ancillary to the transport systems.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without the promoter being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (5) any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the promoter acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation, the amount of such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting on to the street.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker, to whom section 85 of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land for construction of works

28.—(1) The promoter may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—
 - (i) so much of the land shown on the works and land plans as lying within the temporary limits for the purpose specified in relation to that land in column (3) of Schedule 7 (land of which temporary possession may be taken) relating to the scheduled works (or any of them) specified in column (4) of that Schedule; and
 - (ii) any of the land within the permanent limits in respect of which no notice of entry has been served under section 11 of the 1965 Act or no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 14 days before exercising the powers of paragraph (1) the promoter must serve notice of the intended entry on the owners and occupiers of the land.

(3) The promoter may not, without the agreement of the owners of the land, remain in possession of any land of which temporary possession has been taken under this article—

- (a) in the case of land lying within the temporary limits, after the end of the period of 2 years beginning with the date of completion of the work specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of land within the permanent limits, after the end of the period of 2 years beginning with the date of completion of the work for which temporary possession of the land was taken unless the promoter has, by the end of that period, served a notice of entry

under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the promoter must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the promoter is not required to replace a building removed under this article.

(5) The promoter is not required to reinstate plot numbers 01A/10, 02A/02 or 02A/03 following the completion of Work No. 1A.

(6) The promoter must 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 66 (no double recovery), nothing in this article affects 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 (6).

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

(10) Section 13 of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

Temporary use of land for maintenance of works

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, the promoter may—

- (a) enter upon and take temporary possession of any land within the Order limits reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the promoter to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the promoter must serve notice of the intended entry on the owners and occupiers of the land.

(4) The promoter may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

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

(6) The promoter must 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 66 (no double recovery), nothing in this article affects 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 (6).

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

(10) Section 13 of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

(11) In this article, “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for public use.

Compensation

Disregard of certain interests and improvements

30.—(1) In assessing the compensation (if any) payable to any person on the acquisition from that person of any land or interest in land under this Order, the tribunal must 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 that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

31.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must setoff against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity, which will accrue to that person by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 26 (power to acquire new rights), the tribunal must setoff against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are acquired; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Acquisition of part of certain properties

32.—(1) This article applies instead of section 8(1) of the 1965 Act (as applied by article 24 (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 promoter a counter-notice objecting to the sale of the land subject to the notice to treat and stating 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 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 of whether the owner must be required to sell only the land subject to the notice to treat is, unless the promoter agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determines 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 be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines 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 determines 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 promoter is authorised to acquire compulsorily under this Order.

(8) If the promoter agrees to take the land subject to the counter-notice, or if the tribunal determines 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 promoter 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 promoter 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 to 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 promoter 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.

Extinguishment or suspension of private rights of way

33.—(1) Subject to the provisions of this article, 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 promoter, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the promoter under section 11(1) of the 1965 Act, whichever is sooner.

(2) Subject to the provisions of this article, all private rights of way over land owned by the promoter which is within the permanent limits and is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by the promoter.

(3) Subject to the provisions of this article, all private rights of way over land of which the promoter takes temporary possession under this Order are suspended and unenforceable for as long as the promoter 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.) or paragraph 2 of Schedule 9 (provisions relating to statutory undertakers, etc.) applies.

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

(a) any notice given by the promoter before the completion of the acquisition of the land, the promoter's appropriation of it, the promoter's entry onto it or the promoter's taking temporary possession of it, as the case may be, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in subparagraph (a) and before or after the coming into force of this Order) between the promoter and the person in or to whom the right of way in question is vested or belongs.

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

Open space

34.—(1) The Open Space Land is not, by reason of the exercise of powers under this Order, to vest in the promoter until the promoter has acquired the Exchange Land and, upon a request made by the promoter, North Somerset Council has certified that a scheme for the provision of the Exchange Land as open space has been implemented to its satisfaction.

(2) Upon the requirements of paragraph (1) being satisfied, the Exchange Land will vest in North Somerset Council subject to the like rights, trusts and incidents as attached to the Open Space Land and, on the vesting of the Exchange Land, the Open Space Land will be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

- (a) “Exchange Land” means the land in North Somerset shown numbered 01A/01, 01B/01, 02A/01 and 02B/01 on the works and land plans; and
- (b) “Open Space Land” means either—
 - (i) if Work No. 1A is constructed, the land in North Somerset shown numbered 01A/09 and the land in the City of Bristol shown numbered 01A/11, 01A/12, 01A/13, 01A/14, 02A/04 and 04A/01 on the works and land plans; or
 - (ii) if Work No. 1B is constructed, the land in North Somerset shown numbered 01B/09 and 01B/10 and the land in the City of Bristol shown numbered 01B/11, 01B/12 and 04B/01, on the works and land plans.

(4) Section 19 of the Acquisition of Land Act 1981 has effect in relation to any open space within the meaning of subsection (4) of that section as if in paragraph (1)(a) of that section the words “the persons in whom the land purchased was vested” were substituted by the words “the local authority in whose area that land is situated”.

Time limit for exercise of powers of acquisition

35.—(1) After the end of the time limit—

- (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 24 (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, as applied to this Order by article 25 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 28 (temporary use of land for construction of works) will cease at the end of the period mentioned in paragraph (1), but nothing in this paragraph prevents the promoter from 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.

(3) In this article “the time limit” means—

- (a) In relation to land comprised in plots numbered 09/03, 09/08 to 09/11 and 09/22, the period of 2 years beginning with the day on which this Order comes into force; and
- (b) In all other cases, the period of 5 years beginning with the day on which this Order comes into force.