
STATUTORY INSTRUMENTS

2015 No. 1984

The Port Talbot Steelworks Generating Station Order 2015

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of rights

12.—(1) The undertaker may create and compulsorily acquire the new rights affecting the Order land described in Part 1 of the book of reference and shown on the land plans.

(2) Subject to section 8 of the 1965 Act (provisions as to divided land), as substituted by paragraph 5 of Schedule 3 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(3) Schedule 3 has effect for the purpose of modifying the enactments referred to in that Schedule in their application to the compulsory acquisition under this Order of a right by the creation of a new right.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

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

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

(3) In section 3 (preliminary notices), omit subsection (1) and substitute—

“(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 that 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)—

- (a) omit “(1)(b)” and substitute “(1)”; and
- (b) after “given” insert “and published”.

(5) In that section, omit subsections (5) and (6) and substitute—

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

- (a) the person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or

(1) 1981 c.66. Section 3(4) was amended by paragraph 37 of Schedule 5 to the Infrastructure Act 2015 (c.7).

(b) the person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds 1 month.”

(6) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and

(b) omit subsection (2).

(7) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 must be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of rights under this Order.

Compulsory acquisition of land: minerals

14.—(1) Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981, except for paragraph 8(3) of that Schedule, are incorporated in this Order, subject to the modification set out in paragraph (2).

(2) Omit “acquiring authority” wherever that expression occurs and substitute “undertaker” in each case.

Time limit for exercise of authority to acquire rights compulsorily

15. After 7th December 2020—

(a) no notice to treat may be served under Part 1 of the 1965 Act; and

(b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 13 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

Acquisition of subsoil or airspace only

16.—(1) The undertaker may acquire compulsorily such rights in the subsoil of or the airspace over the land referred to in article 12(1) (compulsory acquisition of rights) as may be required for any purpose for which rights over that land may be acquired under that paragraph.

(2) Where the undertaker acquires any rights in the subsoil of or the airspace over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

Private rights

17.—(1) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are suspended and are unenforceable or, where so notified by the undertaker, extinguished insofar as in either case their continuance would be inconsistent with the exercise by the undertaker of the rights acquired—

(a) as from the date of the acquisition of the rights by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act⁽²⁾ (power of entry),

(2) Section 11 was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981, paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1), Part 1 of Schedule 1 to the Housing (Consequential Provisions) Act 1985 (c.71) and paragraph 64 of Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).

whichever is earlier.

(2) Subject to the provisions of this article, any private rights over the Order land owned by the undertaker are suspended and are unenforceable or, where so notified by the undertaker, extinguished insofar as in either case their continuance would be inconsistent with any activity authorised by this Order—

(a) in the case of a suspension, as from the commencement of the activity authorised by this Order that interferes with such rights; and

(b) in the case of an extinguishment, on the date specified in the notice given by the undertaker.

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

(4) This article does not apply to any right in relation to which section 138 of the 2008 Act⁽³⁾ (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 18 (statutory undertakers) applies.

(5) Paragraph (1) has effect subject to any agreement made, insofar as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right in question is vested, belongs or benefits.

(6) If an agreement referred to in paragraph (5)—

(a) is made with a person in or to whom the right is vested, belongs or benefits; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(7) Reference in this article to private rights over land includes any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

Statutory undertakers

18.—(1) The undertaker may, subject to Schedule 4 (protective provisions), acquire compulsorily new rights over land belonging to, extinguish rights of, or remove or reposition apparatus belonging to, statutory undertakers over or within the Order land.

(2) In this article, “statutory undertaker” means a person falling within section 127(8) of the 2008 Act.

(3) Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c.27).