
STATUTORY INSTRUMENTS

2015 No. 780

The Network Rail (Ordsall Chord) Order 2015

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

21.—(1) Network Rail may acquire compulsorily—

- (a) so much of the land shown on the land plans as lying within the limits of deviation and described in the book of reference as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 (acquisition of land for ancillary works) (being land shown on the land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule,

and may use any land so acquired for those purposes, or for any other purposes that are ancillary to its railway undertaking as existing from time to time.

(2) This article is subject to paragraph (3) of article 24 (power to acquire new rights) and paragraph (8) of article 27 (temporary use of land for construction of works) and does not apply to plots 13A and 28A to 28E .

Application of Part 1 of the 1965 Act

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 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

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

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

(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) 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 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)” substitute “(1)” and after “given” insert “and published”.

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

“(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” 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 the words “(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 are 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) Subject to paragraph (3) Network Rail may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 21 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Network Rail may impose restrictive covenants affecting any part of the Order land which is or will, on completion of the authorised works, lie beneath or adjoin any bridge or viaduct comprised in Works Nos. 1, 2 or 3 as may be required for the purpose of protecting the authorised works.

(3) In the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc. may be acquired) Network Rail’s powers of compulsory acquisition are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in column (2) of that Schedule or the imposition of restrictive covenants in accordance with paragraph (2).

(4) Subject to section 8 (other provisions as to divided land) of the 1965 Act (as substituted by paragraph 5 of Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights)) where Network Rail acquires a right over land or the benefit of a restrictive covenant under paragraph (1), (2) or (3) Network Rail is not required to acquire a greater interest in that land.

(5) Schedule 9 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 or the imposition of a restrictive covenant.

(6) In any case where the acquisition of new rights under paragraph (1) or the imposition of restrictive covenants under paragraph (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker Network Rail may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such covenants to the statutory undertaker in question.

(7) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (6) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by Network Rail.

Power to acquire subsoil or air-space only

25.—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the air-space over the land referred to in paragraph (1) (a) or (b) of 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 Network Rail acquires any part of, or rights in, the subsoil of or the air-space over land under paragraph (1), Network Rail is not 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 Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

26.—(1) Network Rail may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), Network Rail may exercise any power conferred by paragraph (1) in relation to a street without Network Rail being required to acquire any part of the street or any easement or right in the street.

(3) 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 onto the street.

(4) 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 Network Rail 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 to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.