
STATUTORY INSTRUMENTS

2017 No. 1074

**The Network Rail (Closure of Abbots
Ripton Level Crossing) Order 2017**

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire new rights

8.—(1) Network Rail may acquire compulsorily, by the creation of a new right or rights, such easements or other rights over the land within the plots shown numbered 2, 3, 4, 5, 6, 7, 8, 9 and 10 on the deposited plan as it may require for the purposes of construction and maintenance of the authorised works.

(2) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the compulsory 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.

(3) The 1981 Act applies as if this Order were a compulsory purchase order.

(4) In section 6 (notices after execution of general vesting declaration) of the 1981 Act as applied by paragraph (3), for the reference to the invitation under section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981, there shall be substituted a reference to the invitation under section 14A(3) of the Transport and Works Act 1992(2).

(5) Schedule 1 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act and the 1981 Act in their application in relation to the compulsory purchase under this article of a right over land by the creation of a new right.

Temporary possession or use of land

Temporary use of land for construction of works

9.—(1) Network Rail may in connection with the carrying out of the authorised works enter upon and take temporary possession of the land within the Order limits for the purposes of provision of a worksite and access and construction of the authorised works on that land.

(1) 1981 c. 67.

(2) Section 14A of the Transport and Works Act 1992 was inserted by article 5 of the Housing and Planning (Compulsory Purchase)(Corresponding Amendments) Regulations 2017 (S.I. 2017/16).

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the authorised works for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to replace a building removed in connection with the carrying out of the authorised works or restore the land on which any permanent works have been constructed under paragraph (1).

(5) Network Rail 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.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 14 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(3) (further provision as to compensation for injurious affection) 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 (5).

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

(9) Section 13(4) (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article.

Supplementary

Time limit for exercise of powers of acquisition

10. The powers conferred by article 9 (temporary use of land for construction of works) cease at the end of the period of 5 years beginning with the day on which this Order comes into force, except that nothing in this paragraph prevents Network Rail 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) Section 10 was amended by section 4 of and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11) and SI 2009/1307.

(4) 1965 c.56 Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).