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STATUTORY INSTRUMENTS

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**2017 No. 1214**

**The Blackpool Tramway (Blackpool  
North Extension) Order 2017**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Powers of acquisition*

**Power to acquire land**

**26.** The promoter may acquire compulsorily so much of the land shown on the deposited plans as lying within the permanent limits as may be required for or in connection with the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its tram system undertaking.

**Application of Part 1 of the 1965 Act**

**27.**—(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 with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(2)(extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017(3)”.

(5) In section 11A(4) (powers of entry: further notices of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

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(1) 1981 c. 67.

(2) As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(3) S.I. 2017/1214.

(4) As inserted by section 186(3) of the Housing and Planning Act 2016.

(6) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017”.

(7) In Schedule 2A(5) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 30(3) (power to acquire subsoil only) of the Blackpool Tramway (Blackpool North Extension) Order 2017, which excludes the acquisition of subsoil only from this Schedule.”;

(b) after paragraph 29, insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 20 (safeguarding works to buildings), 32 (temporary use of land for construction of works) or 33 (temporary use of land for maintenance of works) of the Blackpool Tramway (Blackpool North Extension) Order 2017.”

### **Application of Compulsory Purchase (Vesting Declarations) Act 1981**

**28.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(6) 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 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A(7) (time limit for general vesting declaration).

(5) In section 5B(8) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 and 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017”.

(6) In section 6(9) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.

(7) In section 7(10) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(11) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

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(5) As inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016 (c. 22).

(6) 1981 c. 66.

(7) As inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(8) As inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(9) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(10) As amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(11) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

“(2) But see article 30(3) (power to acquire subsoil only) of the Blackpool Tramway (Blackpool North Extension) Order 2017, which excludes the acquisition of subsoil only from this Schedule.”

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land by article 27 (application of Part 1 of the 1965 Act).

### **Powers to acquire new rights**

**29.**—(1) 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 Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 4 (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 4 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.

### **Powers to acquire subsoil only**

**30.**—(1) The promoter may compulsorily acquire so much of the subsoil of the land within the permanent limits as may be required for any purpose for which that land may be acquired instead of acquiring the whole of the land.

(2) Where the promoter acquires any part of the subsoil of land under paragraph (1) the promoter is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) are to be disregarded where the promoter acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Rights under or over streets**

**31.**—(1) The promoter may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the deposited 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 airspace for those purposes or any other purpose ancillary to its tram system undertaking.

(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) 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,

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the amount of such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) 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 (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.