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STATUTORY INSTRUMENTS

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**2017 No. 830**

The London Overground (Barking  
Riverside Extension) Order 2017

PART 3

ACQUISITION AND POSSESSION OF LAND

*Powers of acquisition*

**Power to acquire land**

**21.**—(1) TfL may acquire compulsorily, subject to paragraph (2), so much of the land shown on the deposited plans within the limits of deviation and of land to be acquired or used and described in the book of reference as may be required for the purposes of the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its undertaking.

(2) In the case of land specified in Schedule 6 (land in respect of which acquisition is limited as regards subsoil) TfL's power of compulsory acquisition under paragraph (1) is limited to the acquisition of land no more than 10 metres beneath the level of the surface of the land and all land above that depth.

(3) This article is subject to article 26 (new rights only to be acquired under or in certain lands).

**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 made 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) (extension of time limit during challenge)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order)” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3)”; and

(b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 33 (time limit for exercise of powers of acquisition) of the London Overground (Barking Riverside Extension) Order 2017”.

(5) 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 33 (time limit for exercise of powers of acquisition) of the London Overground (Barking Riverside Extension) Order 2017”.

(6) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat), 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 16 (protective works to buildings), 28 (temporary use of land for construction of works) or 29 (temporary use of land for maintenance of works) of the London Overground (Barking Riverside Extension) Order 2017.”

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

**23.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(2) applies to TfL 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) Omit section 5 (earliest date for execution of declaration) and 5A (time limit for general vesting declaration).

(4) In section 5B (extension of time limit during challenge)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3)”; and

(b) for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 33 (time limit for exercise of powers of acquisition) of the London Overground (Barking Riverside Extension) Order 2017.

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

(6) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land by article 22 (application of Part 1 of the 1965 Act).

#### **Power to acquire new rights, etc.**

**24.**—(1) TfL may acquire compulsorily such easements or other rights over any land referred to in 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) TfL may impose such restrictive covenants over any land referred to in article 21 which lies, or will on completion of the authorised works lie, beneath and/or adjacent to the authorised railway and the new elevated station as may be required for the purpose of protecting the authorised railway where it is running on the viaduct comprised in Work No. 2 and the new elevated station comprised in Work No. 2.

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(2) 1981 c. 66.

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

(4) Schedule 3 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 or article 26 (new rights only to be acquired under or in certain lands) of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) Paragraph (6) applies to land to which this article applies and which is used for the relocation of any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works.

(6) In relation to the land to which this paragraph applies, the power to acquire or create easements or other rights under paragraph (1) is to be treated as also authorising the acquisition or creation by a statutory undertaker in any case where the Secretary of State gives consent in writing for that acquisition or creation.

(7) The reference in paragraph (6) to a “statutory undertaker” means a licence holder within the meaning of Part 1 of the Electricity Act 1989<sup>(3)</sup>, a gas transporter within the meaning of Part 1 of the Gas Act 1986<sup>(4)</sup>, a water undertaker within the meaning of the Water Industry Act 1991<sup>(5)</sup>, a sewerage undertaker within the meaning of Part 1 of that Act, any local authority which is a relevant local authority for the purposes of section 97 (performance of sewerage undertaker’s functions by local authorities, etc.) of that Act and a public communications provider within the meaning of section 151 (interpretation of Chapter 1) of the Communications Act 2003<sup>(6)</sup>.

### **Power to acquire subsoil only**

**25.**—(1) TfL may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in 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 TfL acquires any part of or rights in the subsoil of land under paragraph (1) TfL is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article 22 (application of Part 1 of the 1965 Act) from applying where TfL acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **New rights only to be acquired under or in certain lands**

**26.**—(1) This article applies to the land specified in Schedule 4 (acquisition of new rights only).

(2) In the case of the land specified in Schedule 4, TfL’s power of compulsory acquisition under article 21 is limited to the acquisition of such easements or other new rights in the land as it may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(3) Where TfL acquires easements or other new rights over the land specified in Schedule 4, article 24(3) (power to acquire new rights, etc.) applies to the same extent as it applies to the acquisition of a new right under that article.

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(3) 1989 c. 29.

(4) 1986 c. 44.

(5) 1991 c. 56.

(6) 2003 c. 21.

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

**27.**—(1) TfL may enter upon and appropriate so much of the surface or subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised works and may use the surface, subsoil or airspace for those purposes or any other purpose ancillary to its undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without TfL 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 TfL 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.

(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 onto 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.