
STATUTORY INSTRUMENTS

2018 No. 693

**The High Speed Rail (London – West Midlands)
(Greatmoor Railway Sidings Etc.) Order 2018**

PART 3

ACQUISITION OF LAND

Powers of acquisition

Power to acquire land

- 7.—(1) The Secretary of State may acquire compulsorily—
- (a) so much of the land shown on the deposited plans which is within the limits of deviation as land to be acquired compulsorily 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 certain lands for ancillary works) (being land shown on the deposited plans and described in the book of reference) as may be required for the purposes specified in relation to that land in column (3) of that Schedule,
 - (c) and may use any land so acquired for those purposes or for any other purposes ancillary to Phase One purposes.
- (2) No interest in Crown land may be acquired and no authorised works may be carried out on Crown land pursuant to this Order unless the appropriate Crown authority consents to the acquisition of that Crown land to enable the authorised works.
- (3) This article is subject to article 10 (power to acquire new rights).

Application of Part 1 of the 1965 Act

- 8.—(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)(c)(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

(1) 1981 c. 67.

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

order), the three year period mentioned in section 4”, substitute “section 22 (validity of orders under section 1 or 3) of the Transport and Works Act 1992, the five year period mentioned in article 15 (time limit for exercise of powers of acquisition) of the High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Order 2018(3)”.

(5) In section 11(1B)(4) (power to enter on and take possession of land the subject of a notice to treat after giving the specified notice), in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(5) (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”.

(7) 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 15 (time limit for exercise of powers of acquisition) of the High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Order 2018”.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

9.—(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 “: 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 or 3), the five year period mentioned in article 15 (time limit for exercise of powers of acquisition) of the High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Order 2018”.

(6) In section 6(9) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of the 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) References to the 1965 Act are to be construed as references to that Act as applied to the acquisition of land under article 7 (power to acquire land).

(3) [S.I. 2018/693](#).

(4) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

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

(6) [1981 c. 66](#).

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

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

(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.

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

Power to acquire new rights

10.—(1) The Secretary of State may acquire compulsorily such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 7 (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) The terms of an easement created under paragraph (1) may include terms imposing a restrictive covenant for the purpose of making the easement effective.

(3) In the case of the land specified in columns (1) and (2) of Schedule 5 (land in which only new rights may be acquired) the Secretary of State'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 (3) of that Schedule.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants)) where the Secretary of State acquires a right over land under paragraph (1) or (2) the Secretary of State is not required to acquire a greater interest in that land.

(5) Schedule 6 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.

Compensation

Disregard of certain interests and improvements

11.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

12.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to him by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 10 (power to acquire new rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and

- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Acquisition of part of certain properties

13.—(1) This article applies instead of section 8(1) (11) (other provisions as to divided land) of the 1965 Act (as applied by article 8 (application of Part 1 of the 1965 Act) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming part only of a house, building or manufactory or part only of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Secretary of State a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the Secretary of State agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat forms part of the land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat forms part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(8) If the Secretary of State agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell part only of a house, building or manufactory or part only of land consisting of a house with a park or garden, the Secretary of State must pay the owner compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

Extinction of private rights of way

14.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the Secretary of State, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Secretary of State under section 11(1)(**12**) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to the provisions of this article, all private rights of way over land owned by the Secretary of State and required for the purposes of this Order are extinguished on the appropriation of the land for any of those purposes by the Secretary of State.

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

(4) Subject to section 13 of the principal Act, this article does not apply in relation to any right of way to which section 271 or 272(**13**) of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

(5) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the Secretary of State before—
 - (i) the completion of the acquisition of the land;

(12) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No 1) and S.I. 2009/1307.

(13) Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

- (ii) the Secretary of State's appropriation of it; or
- (iii) the Secretary of State's entry on to it,

provides that any or all of those paragraphs do not apply in relation to any right of way specified in the notice; and

- (b) any agreement made at any time between the Secretary of State and the person in or to whom the right of way in question is vested or belongs.
- (6) If any agreement referred to in paragraph (6)(b)—
- (a) is made with a person in or to whom the right of way is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

Time limit for exercise of powers of acquisition

15. After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 8 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 9 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(**14**).

(14) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c.17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are amendments to the 1981 Act which are not relevant to this Order.