



# Avon Weir Act 1992

## 1992 CHAPTER v

### PART III

#### LANDS

#### **25 Power to acquire lands**

- (1) The Corporation may acquire compulsorily and use such of the lands delineated on the deposited plans and described in the deposited book of reference as it may require for the purposes of—
  - (a) the works or obtaining access thereto;
  - (b) obtaining materials for the construction of the works, or depositing spoil or other material excavated during the construction thereof;or otherwise for the purposes of this Act or other purposes connected therewith.
- (2) No spoil or other material shall by virtue of the powers of this section be deposited in tidal waters below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.
- (3)
  - (a) The powers of the Corporation for the compulsory acquisition of lands under this section shall not be exercised after 31st December 1996.
  - (b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if notice to treat has been served or deemed to have been served in respect of that land.

#### **26 Power to acquire new rights only**

- (1) Subject to the provisions of this Act, the Corporation may for the purpose of constructing, maintaining, altering, renewing and using the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, acquire compulsorily such new rights as it requires over any of the land delineated on the deposited plans and described in the deposited book

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of reference instead of acquiring that land under section 25 (Power to acquire lands) of this Act.

- (2) The Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory acquisition of new rights under subsection (1) above as it applies to the compulsory acquisition of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.
- (3) Without prejudice to the generality of subsection (2) above, in relation to the acquisition of new rights under subsection (1) above—
  - (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 3 to this Act; and
  - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

## **27 Temporary possession of land**

- (1) This section applies to so much of the land delineated on the deposited plans and thereon numbered 1, 2, 3, 8, 13, 14 and 17 to 22 as lies within the line marked “Limit of land to be acquired or used” (hereinafter in this section referred to as “the said lands”).
- (2) The Corporation may, for the purpose of enabling it to construct the works, enter upon and take possession temporarily of the said lands after giving the owners, lessees and occupiers thereof not less than 28 days' previous notice in writing and may remove any structures thereon and may construct temporary works and structures thereon for such purpose.
- (3) The Corporation—
  - (a) shall not without the agreement of the owners, lessees and occupiers thereof remain in possession of any of the said lands under the powers of this section after a period of 10 years from the date of entry thereon;
  - (b) shall not be empowered to acquire compulsorily or be required to acquire the said lands (except such subsoil or new rights as it requires under the provisions of section 26 (Power to acquire new rights only) of this Act).
- (4) Before relinquishing possession of any of the said lands the Corporation shall remove all works and structures erected by it on the surface thereof and shall, subject to any agreement to the contrary with the respective owners, lessees or occupiers thereof, reinstate the land so far as reasonably practicable to its condition immediately before entry thereon by the Corporation.
- (5) The Corporation shall compensate the owners and occupiers of the said lands for any loss or damage which may result to them by reason of the exercise of the powers of this section.
- (6) Nothing in this section shall relieve the Corporation from liability to compensate under section 10 (2) of the Act of 1965, as incorporated with or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any of the works, other than loss or damage for which compensation is payable under subsection (5) above.

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- (7) Any dispute as to a person's entitlement to compensation under subsection (5) above or as to the amount thereof shall be determined by the tribunal.

## **28 Purchase of part of certain properties**

- (1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.
- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the Corporation a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as "the land subject to the counter-notice"), the question whether he shall be required to sell the part shall, unless the Corporation agrees to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if, on such a reference to the tribunal, the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without such detriment and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If, on such a reference to the tribunal, the tribunal determine that part only 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 such detriment and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If, on such a reference to the tribunal, the tribunal determine that 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 that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be 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 Corporation is authorised to purchase compulsorily under this Act.
- (6) If the Corporation 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 such detriment 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 shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of the land is land which the Corporation is authorised to purchase compulsorily under this Act.

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- (7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Corporation may, within six weeks after the tribunal make their determination, withdraw the notice to treat and, if it does so, shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal:

Provided that the determination of the tribunal shall not be deemed to be made so long as—

- (a) the time for requiring the tribunal to state a case with respect thereto has not expired and any proceedings on the points raised by a case so stated have not been concluded; or
  - (b) any proceedings on appeal from any decision on the points raised by a case so stated have not been concluded.
- (8) (a) Where a person is required under this section to sell part only of a house, building or factory, or land consisting of a house, together with any park or garden belonging thereto, the Corporation shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.
- (b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of compensation shall be determined by the tribunal.
- (9) This section shall apply with any necessary modifications to a notice to treat in respect of a right over land as it applies to a notice to treat in respect of part only of premises, and as if references to part of a house, building or factory or part of land consisting of a house, together with any park or garden belonging thereto were references to a right over land consisting of a house, building or factory or of a park or garden belonging to a house, and as if references to a sale of part were references to a grant of such right.

## **29 Disregard of recent improvements and interests**

In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land or new rights under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, or any building erected, works executed, or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was, at the time of the erecting, executing or making of the building, works, improvement or alteration, directly or indirectly concerned if the tribunal are 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 (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining increased compensation.

## **30 Extinction of rights affecting land**

- (1) All private rights over or in any land which may be acquired by the Corporation for the purposes of this Act shall, as from the acquisition of the land, be extinguished.
- (2) All private rights over or in any land of which temporary possession is taken by the Corporation for the purposes of this Act shall, subject to any agreement which may be made between the Corporation and the person in whom the right in question is vested, be suspended for the duration of the Corporation's occupation of that land.

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- (3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute by the tribunal.

### **31 Grant of new rights by persons under disability**

- (1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the Corporation any new right required for the purposes of this Act over or in the lands, not being a new right of water in which some person other than the grantor has an interest.
- (2) The provisions of the Act of 1965 with respect to lands and rentcharges, so far as they are applicable, shall extend and apply to any such grant and to any such new right as aforesaid.

### **32 Agreements with adjoining owners**

- (1) The Corporation may enter into and carry into effect agreements with any person being the owner of, or interested in, either any land adjoining any portion of the works, or any land which may be acquired by the Corporation under this Act, with respect to the sale by the Corporation to him (subject to such reservations, restrictions or other provisions as to the Corporation seem fit) of any land not required for the work.
- (2) The Corporation may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Corporation for the purposes of this Act or any new right so required.

### **33 Set-off for enhancement in value of retained land**

- (1) In this section “relevant land” means any land or any subsoil or undersurface of, or new rights over, any land acquired by the Corporation for the purposes of the works.
- (2) In assessing the compensation payable to any person on the acquisition by the Corporation from him of any relevant land, the tribunal shall—
  - (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works; and
  - (b) set off against the compensation payable any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works.

### **34 Correction of errors in deposited plans and book of reference**

- (1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Corporation after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.
- (2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

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- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the proper officers of the Avon County Council and the City Council, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land or an easement therein (as the case may be) and execute the works in accordance with the certificate.
- (4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.