



Greater Nottingham Light Rapid Transit Act 1994

1994 CHAPTER xv

PART III

LANDS

26 Power to acquire lands

Subject to the provisions of this Act, the undertakers may enter upon, take and use—

- (a) so much of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking including (without prejudice to the generality of the foregoing) the provision of parking facilities for road vehicles and means of access thereto; and
- (b) so much of any land specified in columns (2) and (3) of Schedule 4 to this Act shown on the deposited plans within the limits delineated by the line marked “limit of land to be acquired or used” as they may require for the purpose specified in relation to that land in column (1) of that Schedule.

27 Extinction of private rights of way

- (1) All private rights of way over any land that may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on entry on the land in pursuance of section 11 (1) of the Act of 1965 as applied by this Act, whichever is the sooner.
- (2) All private rights of way over land owned by the undertakers which, being within the limits of deviation or the limits delineated on the deposited plans by the line marked “limit of land to be acquired or used”, is required for the purposes of this Act shall be extinguished on the appropriation of the land for any of those purposes by the undertakers.

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- (3) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to compensation to be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

28 Power to acquire new rights

- (1) In this section references to the purchase by the undertakers of new rights are references to the purchase of rights to be created in favour of the undertakers.
- (2) The undertakers may, for the purposes of constructing, maintaining, protecting, renewing and using any of the authorised works, purchase compulsorily such new rights as they may require over any of the lands that may be acquired compulsorily under this Act instead of acquiring those lands.
- (3) The Act of 1965 as applied by this Act shall have effect with the modifications necessary to make it apply to the compulsory purchase of rights under subsection (2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in that Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the context.
- (4) Without prejudice to the generality of subsection (3) above, in relation to the purchase of rights under subsection (2) above—
- (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 5 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.

29 Acquisition of part only 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, then, 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 undertakers a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter 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 undertakers agree 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 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 said person shall be required to sell the part.

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- (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 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 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 undertakers are authorised to acquire compulsorily under this Act.
- (6) If the undertakers agree 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 shall be 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 undertakers are authorised to acquire compulsorily under this Act.
- (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 undertakers may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the person on whom the notice was served compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.
- (8) For the purposes of subsection (7) above, the determination shall not be taken to have been made so long as—
- (a) the time for requiring the tribunal to state a case with respect to the determination has not expired;
 - (b) any proceedings on points raised by a case stated have not been concluded; or
 - (c) any proceedings on appeal from any decision on points raised by a case stated have not been concluded.
- (9) Where a person is required under this section to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the undertakers 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.

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30 Disregard of recent improvements and interests

In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land (including rights) under this Act, the tribunal shall 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, whether on the land acquired, or, as the case may be, on the land over which rights are acquired, or on any other land with which the claimant is, or was, at the time of erection, 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 compensation or increased compensation.

31 Set-off for enhancement in value of retained land

- (1) In this section “relevant land” means any land or any new rights over any land purchased by the undertakers for the purposes of the authorised works.
- (2) In assessing the compensation payable to any person on the acquisition or purchase by the undertakers from him of any relevant land, the tribunal shall set off against the value of the relevant land any increase in value of any contiguous or adjacent lands belonging to the same person in the same capacity, or of the land over which new rights are acquired, which will accrue to him by reason of the construction of any of the authorised works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

32 Grant of 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 undertakers any right required for the purposes of this Act over the lands.
- (2) Nothing in this section shall be construed as empowering persons to grant any right of water in which any other person has an interest, unless that other person concurs in the grant.
- (3) The provisions of the Act of 1965 with respect to lands and rent-charges so far as they are applicable shall extend and apply to any such grant and to any such right as aforesaid.

33 Compensation in respect of depreciation in value of interest in land subject to mortgage

Where an interest in land is subject to a mortgage—

- (a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;

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- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person;
- (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

34 Temporary possession of land

- (1) In this section “the relevant land” means any of the lands in the City numbered 15, 16, 17, 18, 19, 21, 22, 107, 112, 113, 114 and 162 on the deposited plans, and any of the lands in the district of Ashfield numbered 19 on the deposited plans, shown on the deposited plans within the limits delineated by the line marked “limit of land to be acquired or used” and specified in Schedule 4 to this Act.
- (2) Subject to the provisions of this section, the undertakers may take temporary possession of and use the relevant land for the provision of working sites and access for construction purposes, and for that purpose may remove any structures and vegetation on the land.
- (3) Not less than 28 days before entering upon and taking temporary possession of the relevant land the undertakers shall give notice to the owners and occupiers of the land.
- (4) All private rights of way over any land of which the undertakers take possession under this Act shall be suspended and unenforceable against the undertakers for so long as they shall remain in lawful possession of the land.
- (5)
 - (a) The undertakers shall not, without the agreement of the owners and occupiers, remain in possession of any part of the relevant land under the powers of this section after a period of 18 months from the completion of the work of construction for which possession was required.
 - (b) Before giving up possession of the relevant land, the undertakers shall remove all temporary works and, subject to any agreement to the contrary with the owners and occupiers of the land, restore the relevant land to the reasonable satisfaction of the owners and occupiers thereof.
- (6)
 - (a) The undertakers shall not be empowered to purchase compulsorily, or be required to purchase, any part of the relevant land of which they take possession under this section.
 - (b) The undertakers shall compensate the owners and occupiers of the relevant land for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to the relevant land.
 - (c) Nothing in this section shall relieve the undertakers from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied by this 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 (b) above.
- (7) Compensation payable under this section shall be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

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35 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 undertakers, 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 or inadvertence, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.
- (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 officer of the district council for the area in which the land is situated 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 undertakers to take the land or, as the case may be, a right over the land 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.

36 Period of compulsory purchase of lands or rights

- (1) The powers of the undertakers for the compulsory acquisition of the lands and rights which they are authorised to acquire by this Part of this Act shall not be exercised after the expiration of five years from the passing of this Act.
- (2) The powers of the undertakers for the compulsory acquisition of the said lands and rights shall, for the purposes of this section, be deemed to have been exercised if notice to treat has been served in respect of those lands and rights.

37 Acquisition of land in advance of requirements

Without prejudice to the generality of their powers to acquire land by agreement under section 120 of the Local Government Act 1972 and section 26 of the Land Compensation Act 1973, the undertakers may acquire by agreement any land in their area which, in their opinion—

- (a) is likely to be required for the development of a light rail transit network in their area; or
- (b) by reason of published proposals indicating that it might be so required, is a hereditament in respect of which a valid blight notice could have been served on them under section 150 or 161 of the Town and Country Planning Act 1990 if it were land of the description specified in paragraph 21 of Schedule 13 to the said Act of 1990.