



Croydon Tramlink Act 1994

1994 CHAPTER xi

PART III

ACQUISITION OF LAND

28 Power to acquire lands

- (1) Subject to the provisions of this Act, the Corporation may enter upon, take and use—
 - (a) so much of the land shown on the deposited plans within the limits of deviation for the authorised works as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking; and
 - (b) so much of any land specified in columns (1) and (2) of Part I of Schedule 3 to this Act shown on the deposited plans within the limits of land to be acquired or used as they may require for the purpose specified in relation to that land in column (3) of that Part of that Schedule.
- (2) Without prejudice to section 51 (As to land of Council) of this Act, the Corporation shall not under the powers of this Act without the consent of the Council acquire compulsorily any interest of the Council in the lands in the London borough of Croydon referred to in the book of reference.
- (3) The Corporation shall not under the powers of this Act without the consent of the railways board acquire or enter upon, take or use whether temporarily or permanently, or acquire any new rights or subsoil of—
 - (i) the lands of the railways board delineated on the deposited plans and therein numbered 1, 2, 3, 4, 5, 6, 8, 10, 11, 55, 57 and 60 in the London borough of Merton;
 - (ii) the lands of the railways board delineated on the deposited plans and therein numbered 6, 9, 10, 10A, 25 and 30 in the London borough of Croydon; or
 - (iii) the lands of the railways board delineated on the deposited plans and therein numbered 6, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18 and 21 in the London borough of Bromley.

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- (4) Without prejudice to subsection (3) above the Corporation may acquire the interest of any person other than the railways board in any of the lands specified in subsection (3) above for the purposes of the authorised works.

29 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 any land of which the Corporation may take temporary possession under this Act shall be suspended and unenforceable against the Corporation for so long as the Corporation shall remain in lawful possession thereof.
- (3) Any person who suffers loss by the extinguishment or suspension 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.

30 Power to acquire new rights

- (1) In this section references to the purchase by the Corporation of new rights are references to the purchase of rights to be created in favour of the Corporation.
- (2) The Corporation 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 4 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.

31 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

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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 (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 Corporation 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.
- (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 Corporation are authorised to acquire compulsorily under this Act.
- (6) If the Corporation 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 Corporation 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 Corporation 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—

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- (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 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.

32 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.

33 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 Corporation for the purposes of the authorised works.
- (2) In assessing the compensation payable to any person on the purchase 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 authorised works; and
 - (b) set off against the value of the relevant land 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 authorised works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

34 Temporary possession of land

- (1) In this section “the relevant land” means so much of any of the lands specified in Part II of Schedule 3 to this Act as is not within the limits of deviation for any of the authorised works.

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- (2) Subject to the provisions of this section, the Corporation may take temporary possession of and use the relevant land for the provision of working sites and access for construction purposes.
- (3) Not less than 28 days before entering upon and taking temporary possession of the relevant land the Corporation shall give notice to the owners and occupiers of the land.
- (4)
 - (a) The Corporation 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 authorised works.
 - (b) Before giving up possession of the relevant land, the Corporation shall remove all temporary works and restore the relevant land to the reasonable satisfaction of the owners and occupiers thereof; but the Corporation shall not be required to replace a building removed by them under this section.
- (5)
 - (a) The Corporation shall not be empowered to purchase compulsorily, or be required to purchase, any part of the relevant land.
 - (b) The Corporation 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 Corporation 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.
- (6) Every case of compensation under this section shall be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.

35 Provision for mortgagors in certain cases

- (1) This section applies where—
 - (a) the whole or part of the interest of a resident owner occupier (“the relevant owner”) in land is acquired in consequence of the construction of Tramlink;
 - (b) at the date of the passing of this Act the interest is subject to one or more mortgages;
 - (c) at the valuation date, the principal, interest and costs secured on the land by that mortgage or those mortgages (“the mortgage debt”) exceeds 90 per cent. of the open market value of the whole of the relevant owner’s interest in the land; and
 - (d) the whole of the mortgage debt is required by the mortgagee or mortgagees to be repaid on the disposal by the relevant owner of the interest in the land to be acquired as mentioned in paragraph (a) above.
- (2) Where this section applies the acquiring authority may, if so required by the relevant owner, either—
 - (a) lend to him on the terms mentioned in subsection (3) below a sum equal to the amount by which the mortgage debt exceeds 90 per cent. of the open market value of the whole of his interest in the land at the valuation date; or

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- (b) if another person lends that sum to the relevant owner on the terms mentioned in subsection (3) or on other terms acceptable to the relevant owner, guarantee any default on the part of the relevant owner in the payment of that loan and of all interest payable under it.
- (3) Any loan made under subsection (2) (a) above shall, unless otherwise agreed between the parties, be made on the same terms (except as to security) as those on which the mortgage (or, if there was more than one, the last mortgage) referred to in subsection (1) (b) above was made.
- (4) Any loan made under subsection (2) (a) above shall, if the acquiring authority so require, be secured—
 - (a) by way of a second mortgage, on any land purchased by the relevant owner within two years from the valuation date; and
 - (b) where only part of the relevant owner's interest in the land has been acquired, by way of a first mortgage on the land retained by the relevant owner (in addition to the mortgage referred to in paragraph (a) above).
- (5) Where the acquiring authority enter into a guarantee under subsection (2) (b) above, the relevant owner and his personal representatives shall indemnify the acquiring authority against all actions, proceedings, liability, claims, damages, costs and expenses in relation to or arising out of the guarantee.
- (6) For the purposes of this section an interest in land shall be taken to be acquired in consequence of the construction of Tramlink if—
 - (a) it is acquired by the Corporation for the purposes of the Act; or
 - (b) it is acquired by the Corporation or the Council in pursuance of any undertaking given to a Parliamentary Committee during the passage through Parliament of the Bill for this Act or any undertaking or agreement given to a person in consideration of his refraining from opposition to that Bill.
- (7) In this section—
 - “acquiring authority” means the Corporation or, as the case may be, the Council;
 - “the mortgage debt” means the principal, interest and costs referred to in subsection (1) (c) above;
 - “the relevant owner” means the owner occupier referred to in subsection (1) above;
 - “resident owner occupier” has the same meaning as in Chapter II of Part VI of the Town and Country Planning Act 1990; and
 - “valuation date” means the date on which the relevant owner's interest falls to be valued for the purposes of the acquisition (whether under the enactments relating to compulsory purchase or under the agreement or undertaking concerned).

36 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.

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- (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 London borough 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 Corporation 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.

37 Period of compulsory purchase of lands or rights

- (1) The powers of the Corporation 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 Corporation 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.

38 Extinguishment of powers of compulsory purchase of lands or rights

- (1) The compulsory purchase powers shall cease to have effect if—
 - (a) a period of not less than 3 years beginning with the day on which this Act is passed has expired;
 - (b) none of those powers has been exercised; and
 - (c) after the expiry of the said period of 3 years, a resolution in pursuance of this section is passed by each of the following:—
 - (i) the Council;
 - (ii) the Council of the London borough of Merton; and
 - (iii) the Council of the London borough of Bromley.
- (2) For the purposes of this section—
 - (a) “compulsory purchase powers” means the powers of the Corporation for the compulsory acquisition of lands or rights under this Part of this Act; and
 - (b) the compulsory purchase powers shall be deemed to have been exercised if notice to treat has been served under those powers in respect of any land or rights.