



# High Speed Rail (West Midlands - Crewe) Act 2021

## 2021 CHAPTER 2

### *Compulsory acquisition of land*

#### **4 Power to acquire land compulsorily**

- (1) The Secretary of State may acquire compulsorily so much of the land within the Act limits as may be required for Phase 2a purposes.
- (2) Schedule 6 contains provision about the particular purposes for which land within the limits of land to be acquired or used may be acquired under subsection (1).
- (3) Part 1 of the Compulsory Purchase Act 1965, so far as not inconsistent with this Act, applies to an acquisition of land under subsection (1)—
  - (a) as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land Act 1981 applies, and
  - (b) as if this Act were a compulsory purchase order under that Act.
- (4) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Act were a compulsory purchase order.
- (5) Schedule 7 contains further provision about the application of compulsory purchase legislation.

#### **5 Acquisition of rights and imposition of restrictive covenants**

- (1) The power under section 4(1) includes power—
  - (a) to acquire such easements or other rights over land to which the power relates as may be required for Phase 2a purposes, by—
    - (i) creating new easements or other rights, or
    - (ii) acquiring easements or other rights already in existence;
  - (b) to impose such restrictive covenants over land to which the power relates as may be required for Phase 2a purposes.

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- (2) In the case of land specified in the table in Schedule 8, the power under section 4(1) may be exercised only in either or both of the following ways—
  - (a) so as to acquire rights for purposes specified in relation to the land in column (3) of the table;
  - (b) so as to impose restrictive covenants for such specified purposes.
- (3) The power under section 4(1), so far as relating to compulsory acquisition by virtue of subsection (1), includes power to acquire rights or to impose restrictive covenants for the benefit of a person other than the Secretary of State.
- (4) The Secretary of State may by order provide that section 4(1), so far as relating to compulsory acquisition by virtue of subsection (1), is to be treated as also authorising acquisition of rights or imposition of restrictive covenants by such person as may be specified in the order.
- (5) The power to make an order under subsection (4) includes power to make an order varying or revoking any order previously made under that subsection.
- (6) Schedules 9 and 10 contain provision about the application of compulsory purchase legislation to a compulsory acquisition where rights are acquired or restrictive covenants imposed.
- (7) In section 5 of the High Speed Rail (London - West Midlands) Act 2017 (which makes provision corresponding to that made by this section), after subsection (4) insert—
  - “(4A) The power under section 4(1), so far as relating to compulsory acquisition by virtue of this section, includes power to acquire rights or to impose restrictive covenants for the benefit of a person other than the Secretary of State.”

## **6 Acquisition of airspace**

- (1) The power under section 4(1) in relation to land may be exercised in relation to the airspace over the land only.
- (2) The following do not apply in connection with the exercise of the power under section 4(1) in relation to airspace only—
  - (a) Schedule 2A to the Compulsory Purchase Act 1965 (counter-notice requiring purchase of land not in notice to treat);
  - (b) Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration);
  - (c) section 153(4A) of TCPA 1990 (blighted land: proposed acquisition of part interest - material detriment test).

## **7 Acquisition of subsoil or under-surface**

- (1) The power under section 4(1) in relation to land may be exercised in relation to the subsoil or under-surface of the land only.
- (2) The following do not apply in connection with the exercise of the power under section 4(1) in relation to subsoil or under-surface only—
  - (a) Schedule 2A to the Compulsory Purchase Act 1965 (counter-notice requiring purchase of land not in notice to treat);

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- (b) Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (corresponding provision in case of general vesting declaration);
  - (c) section 153(4A) of TCPA 1990 (blighted land: proposed acquisition of part interest - material detriment test).
- (3) Subsection (2) is to be disregarded where the power under section 4(1) is exercised in relation to a cellar, vault, arch or other construction forming part of a house, building or factory.
- (4) Schedule 11 contains provision which in certain cases restricts the power under section 4(1) to the subsoil or under-surface of land.

## **8 Highway subsoil**

- (1) The nominated undertaker may enter upon, take and use for the purposes of the works authorised by this Act so much of the subsoil of any highway within the Act limits as is required for the purposes of the construction or maintenance of those works, without being required to acquire that subsoil or any interest in it.
- (2) Subsection (1) does not apply in relation to any cellar, vault, arch or other construction in, on or under a highway which forms part of a building fronting on to the highway.
- (3) In the case of land specified in the table in Schedule 12—
- (a) the power under subsection (1) is not exercisable in relation to the subsoil of a highway comprised in the land, and
  - (b) the power under section 4(1) is not exercisable in relation to the land so far as the surface of the land is comprised in a highway.
- (4) Subsection (3)(b) does not restrict the exercise of the power under section 4(1) in relation to a cellar, vault, arch or other construction in, on or under a highway which forms part of a building fronting on to the highway where—
- (a) the building is within the Act limits, and
  - (b) the power under section 4(1) is exercisable in relation to the building.
- (5) In the case of a highway comprised in land specified in the table in paragraph 1 of Schedule 11, the power under subsection (1) is exercisable only in relation to so much of the subsoil of the highway as lies more than 9 metres beneath the level of the surface of the highway.
- (6) The restrictions imposed by subsections (3) and (5) on the power under subsection (1) do not affect the power under paragraph 9(1) of Schedule 4 (power of nominated undertaker to enter upon highway to carry out certain street works).
- (7) The nominated undertaker must compensate any person who—
- (a) is an owner or occupier of land in respect of which the power under subsection (1) is exercised, and
  - (b) suffers loss by the exercise of that power.
- (8) Any dispute as to a person's entitlement to compensation under subsection (7), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (9) Compensation is not payable under subsection (7) to any person who is an undertaker to whom section 85 of the New Roads and Street Works Act 1991 applies (sharing of

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cost of necessary measures) in respect of measures of which the allowable costs are to be borne in accordance with that section.

## **9 Termination of power to acquire land**

- (1) After the end of the period of 5 years beginning with the day on which this Act is passed—
  - (a) no notice to treat may be served under Part 1 of the Compulsory Purchase Act 1965, as applied by section 4(3) to the acquisition of land under section 4(1), and
  - (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by section 4(4) to the acquisition of land under section 4(1).
- (2) The Secretary of State may by order extend the period under subsection (1) in relation to any land, but may only do so—
  - (a) once, and
  - (b) by not more than 5 years.
- (3) An order under subsection (2) is subject to special parliamentary procedure (as to which, see the Statutory Orders (Special Procedure) Act 1945).
- (4) Schedule 13 contains provision about a right to require acquisition where an order is made under subsection (2).

**Changes to legislation:**

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