
STATUTORY INSTRUMENTS

1999 No. 2981

The River Thames (Hungerford Footbridges) Order 1999

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the River Thames (Hungerford Footbridges) Order 1999 and shall come into force on 23rd August 1999.

Interpretation

2.—(1) In this Order—

“the 1965 Act” means the Compulsory Purchase Act 1965⁽¹⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991⁽²⁾;

“authorised works” means the scheduled works and any other works authorised by this Order;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“the deposited plans” means the Works Plan, the Land Plans and the Footpath Plan being the plans certified by the Secretary of State under those names as the deposited plans for the purposes of this Order;

“the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“the existing Hungerford footbridge” means the existing footbridge over the River Thames immediately adjoining the Charing Cross Railway Bridge in the City of Westminster and the London Borough of Lambeth;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980⁽³⁾;

“the limits of deviation” means the limits of deviation for the scheduled works shown on the deposited plan entitled “Works Plan”;

“LRT” means London Regional Transport and includes any subsidiary of London Regional Transport (within the meaning of section 763 of the Companies Act 1985⁽⁴⁾);

“maintain” includes inspect, repair, adjust, remove, reconstruct, and replace and “maintenance” shall be construed accordingly;

(1) 1965 c. 56.
(2) 1991 c. 22.
(3) 1980 c. 66.
(4) 1985 c. 6.

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding or entitled to the rents and profits of the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the Port Authority” means the Port of London Authority;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“street authority”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“the tribunal” means the Lands Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaker” means the Lord Mayor and Citizens of the City of Westminster;

“the undertaking” means the undertaking of the undertaker in connection with this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface, and references to the subsoil of any land include references to any cellar, basement, vault, arch or other construction forming part of any such land.

(3) All directions, distances, areas and dimensions stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such direction and length.

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

3.—(1) Subject to paragraph (5) below, the undertaker may:

- (a) construct and maintain the scheduled works;
- (b) break out and remove such structures that are contained within the limits of deviation as may be necessary and convenient for the construction and maintenance of the scheduled works.

(2) Subject to article 4 below, the scheduled works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (4) below, the undertaker may carry out such other works (of whatever nature) as may be necessary convenient or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(4) Paragraph (3) above shall only authorise the carrying out or maintenance of works outside the limits of deviation if the works are carried out on land specified in columns (1) and (2) of Schedule 2 to this Order for the purposes specified in relation to that land in column (3) of that Schedule.

(5) The undertaker shall not carry out any work which prevents the use of the existing Hungerford footbridge by members of the public until

- (a) either Work No. 1 or Work No. 2 is open for public use; or

- (b) the undertaker has provided, within the limits of deviation, a temporary way on foot across the River Thames for members of the public.

Power to deviate

- 4. In constructing or maintaining the scheduled works, the undertaker may
 - (a) deviate laterally from the lines or situations shown on the deposited plan entitled “Works Plan” within the limits of deviation; and
 - (b) deviate vertically from the levels shown for those works on the deposited sections—
 - (i) to any extent not exceeding 1 metre upwards, and
 - (ii) to any such extent downwards as may be necessary or convenient but subject to the consent in writing of the Port Authority.

Streets

Power to execute street works

5.—(1) The undertaker may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 to this Order as is within the limits of deviation and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position or remove it from the street; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c) above.

(2) This article is subject to paragraph 2(3) of Part I of Schedule 10 and paragraph 3 of Schedule 11 to this Order.

(3) In this article “apparatus” has the same meaning as in Part III of the 1991 Act.

Stopping up of streets and extinguishment of rights

6.—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of each Part of Schedule 4 to this Order to the extent specified in column (3) of that Part.

(2) No street specified in columns (1) and (2) of Part I of Schedule 4 to this Order (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it, and which is specified in relation to it in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) with the consent of the street authority, a temporary alternative route is provided between the commencement and termination points of the street to be stopped up until completion of the new street in accordance with sub-paragraph (a) above.

(3) Where a street has been stopped up under this article the undertaker may, without making any payment, appropriate and use for the purposes of the authorised works so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(5).

(5) This article is subject to paragraph 2 of Schedule 11 to this Order.

Temporary stopping up of streets

7.—(1) The undertaker, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2) below, prevent all persons from passing along the street.

(2) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1) above, the undertaker may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 5 to this Order to the extent specified in column (3) of that Schedule.

(4) The undertaker shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (3) above without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The provisions of the 1991 Act mentioned in paragraph (6) below and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the undertaker under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the undertaker.

(6) The provisions of the 1991 Act referred to in paragraph (5) above are—

- section 54 (advance notice of certain works),
- section 55 (notice of starting date of works),
- section 59 (general duty of street authority to co-ordinate works),
- section 60 (general duty of undertakers to co-operate),
- section 69 (works likely to affect other apparatus in the street),
- section 76 (liability for cost of temporary traffic regulation),
- section 77 (liability for cost of use of alternative route), and

all such other provisions as apply for the purposes of the provisions mentioned above.

(7) The undertaker shall not stop up any part of Queen's Walk under this article unless a suitable alternative route is first provided and thereafter maintained by the undertaker to the reasonable satisfaction of the street authority.

Access to works

8. The undertaker may, for the purposes of the authorised works, form and lay out means of access or improve existing means of access in such locations within the limits of deviation shown

on the deposited plans or listed in Schedule 6, within the boundaries of the street in question, as the undertaker reasonably requires for the purposes of the authorised works and as may be approved by the highway authority but such approval shall not be unreasonably withheld.

Construction and maintenance of new or altered streets

9.—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Nothing in this article shall prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under this article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act.

(4) Nothing in this article shall have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

Dedication and maintenance of highways

10.—(1) Each footbridge deck and each set of stairs comprised in the scheduled works shall be dedicated by the undertaker as a highway as soon as reasonably possible after completion of construction of the deck and sets of stairs comprised in the scheduled work in question.

(2) Any dedication under paragraph (1) above is subject to the rights of the Port Authority under the provisions of Part II of Schedule 10.

Agreements with street authorities

11.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
- (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (d) the execution in the street of any of the works referred to in article 5(1) above.

(2) Such an agreement may, without prejudice to the generality of paragraph (1) above—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payments and otherwise as the parties consider appropriate.

Supplemental powers

Discharge of Water

12.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land shown within the limit line shown marked “50 metres from new construction” on the deposited plan entitled “Works Plan”, make openings into, and connections with, the watercourse, public sewer or drain.

(2) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs and in the case of the River Thames with the consent of the Port Authority; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The undertaker shall not make any opening into a public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(5) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991⁽⁶⁾.

(6) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency or a local authority;
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Safeguarding works to buildings

13.—(1) Subject to the following provisions of this article, the undertaker may at its own expense and from time to time carry out such safeguarding works to any building lying within the relevant distance of any authorised works (other than works under this article), as the undertaker considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this article to a building the undertaker may (subject to paragraphs (5) and (6) below)—

(6) 1991 c. 57.

- (a) enter the building and any land belonging to it; and
 - (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).
- (5) Before exercising a right—
- (a) under paragraph (1) above to carry out safeguarding works to a building,
 - (b) under paragraph (3) above to enter a building,
 - (c) under paragraph (4)(a) above to enter a building or land, or
 - (d) under paragraph (4)(b) above to enter land,

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the right and, in a case falling within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 36 below.

(7) The undertaker shall compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

- (8) Where—
- (a) safeguarding works are carried out under this article to a building, and
 - (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

the undertaker shall compensate the owners and occupiers for any damage sustained by them.

(9) Subject to article 35 of this Order, nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part I of the Land Compensation Act 1961(7).

- (11) In this article—
- (a) any reference to a building within a relevant distance of a work includes—
 - (i) in the case of a work under the surface of the ground, a reference to any building within the relevant distance of the point on the surface below which the work is situated; and
 - (ii) where a work has not commenced, a reference to any building within the relevant distance of the proposed site of the work;
 - (b) “safeguarding works”, in relation to a building means—
 - (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works; and
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and

- (c) “relevant distance”, in relation to any work, means:
- (i) in the case of works under the surface of the ground, within the limit line shown marked “50 metres from new construction” on the deposited plan entitled “Works Plan”; and
 - (ii) in any other case, within the limit line shown marked “35 metres from new construction” on the deposited plan entitled “Works Plan”.

Power to survey and investigate land

- 14.—(1) The undertaker may for the purposes of this Order—
- (a) survey or investigate any land shown within the limit line shown marked “50 metres from new construction” on the deposited plan entitled “Works Plan” which may be affected by the authorised works, but not any building on any such land;
 - (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) place on, leave on and remove from the land included in sub-paragraph (a) above apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraph (a) or (b) above; and
 - (d) enter on the land included in sub-paragraph (a) above for the purpose of exercising the powers conferred by sub-paragraph (a) or (b) above.
- (2) No land may be entered, or equipment placed or left on or removed from land under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the undertaker—
- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
 - (b) may take with him such vehicles and equipment as are necessary to exercise any of the powers conferred by paragraph (1) above.
- (4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority.
- (5) The undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(8).

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

- 15.—(1) The undertaker may acquire compulsorily—

(8) 1961 c. 33.

- (a) so much of the land shown on the Land Plans within the limits of deviation and described in the book of reference as may be required for the purposes of the authorised works and not being land referred to in sub-paragraph (b) below, and
 - (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the Land Plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule;
- and may use any land so acquired for those purposes connected with or ancillary to its undertaking.
- (2) This article is subject to article 20(8) below.

Application of Part I of Compulsory Purchase Act 1965

16.—(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(9) applies; and
 - (b) as if this Order were a compulsory purchase order under that Act.
- (2) Part I of the 1965 Act, as so applied, shall have effect as if—
- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
 - (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
 - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or
 - (ii) in any other case, a reference to notice of 3 months.

Power to acquire new rights

17.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 15 above 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) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have 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.

Power to acquire subsoil only

18.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 15 above as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Subject to paragraph (3) below, where the undertaker acquires any part of the subsoil of land under paragraph (1) above the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent section 8 of the 1965 Act or article 23 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Vesting declarations

19.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(10) shall apply as if this order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, subsections (5) and (6) shall be omitted and at the end there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 15(1) above.

Temporary possession of land

Temporary use of land for construction of works

20.—(1) The undertaker may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purposes specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking temporary possession of the land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the work or works specified in relation to that land in column (4) of Schedule 8 to this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace any building removed under this article.

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961⁽¹¹⁾.

(7) Without prejudice to article 35 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 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 (5) above.

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) above except that the undertaker shall not be precluded from—

- (a) acquiring new rights over any part of that land under article 17 above; or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 18 above.

(9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

Temporary use of land for maintenance of works

21.—(1) At any time during the maintenance period relating to any of the scheduled works, the undertaker may—

- (a) enter upon and take temporary possession of any land within the limit line shown marked “50 metres from new construction” on the deposited plan entitled “Works Plan” if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(11) 1961 c. 33.

(2) Paragraph (1) above shall not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961.

(8) Without prejudice to article 35 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 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 (6) above.

(9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) In this article—

- (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use; and
- (b) any reference to land within a specific distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

Compensation

Disregard of certain interests and improvements

22.—(1) In assessing the compensation (if any) payable to any person on the compulsory acquisition from him of any land under this Order, 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 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 the intention of obtaining compensation or increased compensation.

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

Supplementary

Acquisition of part of certain properties

23.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 16 above) 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 only part of a house building or factory or 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 undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he 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 shall be required to 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 shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, 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) in the case of 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 owner shall be required to 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) in the case of 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 shall be 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 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 undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines 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 undertaker 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 undertaker 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 shall pay the owner 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.

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

Extinguishment and suspension of private rights of way

24.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or

(b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act, whichever is sooner.

(2) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990⁽¹²⁾ (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 11 to this Order applies.

Use of subsoil

25.—(1) The undertaker may enter upon, take and use so much of the subsoil of any street within the limits of deviation or within the land the subject of article 15(1)(b) as may be required for the purpose of the construction or maintenance of the authorised works without being required to acquire that subsoil or any right therein.

(2) The undertaker shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) above where the street is a highway; but where the street is not a highway any person suffering loss by the exercise of that power shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961⁽¹³⁾.

(3) Paragraphs (1) and (2) above shall not apply in relation to—

(a) any subway or underground building; or

⁽¹²⁾ 1990 c. 8.

⁽¹³⁾ 1961 c. 33.

- (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting onto, or abutting or lying under, the street.

Time limit for exercise of powers of acquisition

26.—(1) Subject to paragraph (2) below, the powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 20 above to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) Paragraph (1) above shall not prevent the undertaker remaining in possession of land in accordance with article 20 above after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART IV

MISCELLANEOUS AND GENERAL

Saving for Trinity House

27. Nothing in this Order shall prejudice or derogate from any of the powers, rights or privileges, or the jurisdiction or authority of Trinity House.

Protection of certain persons

28.—(1) For the protection of the Environment Agency, Schedule 9 shall have effect.

(2) For the protection of the persons specified in the several Parts of that Schedule, Schedule 10 shall have effect.

Statutory undertakers, etc.

29. Schedule 11 to this Order shall have effect.

Regulation of footways

30. Schedule 12 to this Order shall have effect.

Application, modification and exclusion of miscellaneous enactments

31. Schedule 13 to this Order shall have effect.

Repeal of enactments

32.—(1) Part I of Schedule 14 to this Order shall have effect.

(2) For any period during which the undertaker is, pursuant to article 3(5) above, providing a temporary way on foot for members of the public across the River Thames in place of the existing Hungerford footbridge, the enactments mentioned in Part II of Schedule 14 to this Order shall be modified so as not to require the existing Hungerford footbridge to be open for use by the public.

(3) On the dedication as a highway of Work No. 1 or Work No. 2 pursuant to article 10 above, the enactments mentioned in Part II of Schedule 14 to this Order shall be repealed to the extent specified in the third column of that Part.

Certification of plans, etc.

33. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited sections and the deposited plans to the Secretary of State for certification that they are, respectively, true copies of the book of reference, sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

34.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(**14**) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

35. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

36. Any difference under any provision of this Order (other than in relation to any matter otherwise provided for in Schedules 9, 10, 11 or a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Byelaws

37.—(1) The undertaker may make byelaws regulating the use and operation of the authorised works, the maintenance of order on the authorised works and the conduct of all persons while on the authorised works.

(14) 1978 c. 30.

(2) Without prejudice to the generality of paragraph (1) above, byelaws under this article may make provision—

- (a) with respect to interference with, or obstruction of, the operation or maintenance of the authorised works or other facilities provided in connection with the authorised works; and
- (b) with respect to the prevention of nuisances on the authorised works.

(3) Byelaws under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of paragraph (3) above, if the contravention of or failure to comply with, any byelaw under this article is attended with danger or annoyance to the public, or hindrance to the undertaker in the operation of the authorised works, the undertaker may summarily take action to obviate or remove the danger, annoyance or hindrance.

(5) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

(6) At least 28 days before applying for any byelaws to be confirmed under this article, the undertaker shall publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to the Secretary of State within a period specified in the notice, being a period of not less than 28 days.

(7) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment.

(8) The undertaker shall, at the request of any person, supply him with a copy of such byelaws on payment of such reasonable sum as the undertaker may determine.

(9) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation; and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(10) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(11) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment and the undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker shall determine.

(12) The production of a printed copy of byelaws confirmed under this article on which is endorsed a certificate purporting to be signed by a person duly authorised by the undertaker stating—

- (a) that the byelaws were made by the undertaker,
- (b) that the copy is a true copy of the byelaws,
- (c) that on a specified date the byelaws were confirmed by the Secretary of State, and
- (d) the date when the byelaws came into operation

shall be prima facie evidence of the facts stated in the certificate.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by Authority of the Secretary of State for the Environment, Transport and the Regions

2nd August 1999

A.S.D. Whybrow
Head of Charging and Local Transport Division,
Department of the Environment, Transport and
the Regions