
STATUTORY INSTRUMENTS

2002 No. 1065

The Piccadilly Line (Heathrow T5 Extension) Order 2002

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Piccadilly Line (Heathrow T5 Extension) Order 2002 and shall come into force on 30th April 2002.

Interpretation

2.—(1) In this Order—

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

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

“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 Company” means London Underground Limited;

“the deposited plans” means the plans described in rule 7(1)(a) and (3) of the Applications Rules prepared in connection with the application for this Order and the plan referred to in article 7(2) and certified by the Secretary of State as the deposited plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of that rule;

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

“the limits of deviation” means the limits of deviation for the scheduled works shown on the deposited plans;

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

“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 scheduled works” means the works specified in Schedule 1 to this Order;

“the tribunal” means the Lands Tribunal.

(1) 1965 c. 56.

(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 and lengths 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 and distances between points on a railway shall be taken to be measured along the railway.

Incorporation of the Railways Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽²⁾ shall be incorporated in this Order—

section 24 (obstructing construction of railway);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in the case of difference, as shall be authorised by two justices”;

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923⁽³⁾;

sections 103 and 104 (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

section 145 (recovery of penalties);

section 154 (transient offenders).

(2) The following provision of the Railways Clauses Act 1863⁽⁴⁾ shall be incorporated in this Order—

section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

“the company” means the Company;

“goods” includes any thing conveyed on the railways authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works;

“the special Act” means this Order;

(2) 1845 c. 20.

(3) 1923 c. 20.

(4) 1863 c. 92.

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

4.—(1) The Company may construct and maintain the scheduled works.

(2) Subject to article 5 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 (5) below, the Company may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (b) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (c) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works;
- (d) works for the benefit or protection of premises affected by the scheduled works; and
- (e) such other works of whatever nature, including emergency escape shafts and ventilation shafts, as may be necessary or expedient.

(4) The Company may on or in any part of the lands numbered on the deposited plans 56, 57, 58 and 59 make and maintain, in connection with the scheduled works, a railway station together with all such works as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the station.

(5) 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 purpose specified in relation to that land in column (3) of that Schedule.

Power to deviate

5. In constructing or maintaining the scheduled works, the Company may—

- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation for that work shown on that plan, and
- (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 6 metres upwards; or
 - (ii) to any extent downwards as may be necessary or convenient.

Supplemental powers

Discharge of water

6.—(1) The Company 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 on the deposited plans, make openings into, and connections with, the watercourse, sewer or drain.

(2) The Company shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; 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 Company shall not make any opening into any public sewer or drain in accordance with the 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 Company shall not, in the exercise of the powers conferred by this article, damage or interfere with the beds or banks of any watercourse forming part of a main river.

(5) The Company 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.

(6) 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⁽⁵⁾.

(7) 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

7.—(1) Subject to the following provisions of this article, the Company may at its own expense and from time to time carry out such safeguarding works to any building lying within 50 metres of any authorised works (other than works under this article) as the Company considers to be necessary or expedient.

(2) The powers conferred by this article shall not be exercised outside the limits of deviation except in the area coloured pink on the plan marked “Plan referred to in article 7 of the Piccadilly Line (Heathrow T5 Extension) Order 2002” and deposited with the Secretary of State.

(3) 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.

(5) 1991 c. 57.

(4) Subject to paragraph (2) above, for the purpose of determining how the functions under this article are to be exercised the Company may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(5) For the purpose of carrying out safeguarding works under this article to a building the Company may (subject to paragraphs (2) above and (6) and (7)) below—

- (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).

(6) Before exercising—

- (a) a right under paragraph (1) above to carry out safeguarding works to a building;
- (b) a right under paragraph (4) above to enter a building;
- (c) a right under paragraph (5)(a) above to enter a building or land; or
- (d) a right under paragraph (5)(b) above to enter land,

the Company shall, except in 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 that right and, in a case falling within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(7) Where notice is served under paragraph (6)(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 29 below.

(8) The Company 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.

(9) 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 Company shall compensate the owners and occupiers of the building for any damage sustained by them.

(10) Without prejudice to article 28 below, nothing in this article shall relieve the Company from any liability to pay compensation under section 10(2) of the 1965 Act.

(11) Any compensation payable under paragraph (8) or (9) above shall be determined, in case of dispute, under Part I of the Land Compensation Act 1961(6).

(12) In this article—

- (a) any reference to a building within 50 metres of a work includes—
 - (i) in the case of a work under the surface of the ground, a reference to any building within that distance of the point on the surface below which the work is situated; and
 - (ii) where a work has not commenced, a reference to a building within that distance of the proposed site of the work; and
- (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 that has been caused to the building by the construction, maintenance or operation of the authorised works.

Power to survey and investigate land

- 8.—(1) The Company may for the purposes of this Order—
- (a) survey or investigate any land shown on the deposited plans and described in the book of reference or which may be affected by the authorised works;
 - (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Company 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 apparatus for use in connection with the survey and investigation of land and making of trial holes; and
 - (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.
- (2) No land may be entered, or equipment placed or left on or removed from the 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 Company—
- (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 carry out the survey or investigation or to make the trial holes.
- (4) The Company 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.

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

9. Subject to article 13 and article 14 below, the Company may acquire compulsorily—
- (a) so much of the land shown on the deposited 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
 - (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the deposited 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 or for any other purposes connected with or ancillary to its railway undertaking.

Application of Part I of the Compulsory Purchase Act 1965

10.—(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(7) 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.

Powers to acquire new rights

11.—(1) The Company may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 9 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 3 to this Order), where the Company acquires a right over land under paragraph (1) above the Company shall not be required to acquire a greater interest in it.

(3) Schedule 3 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.

Powers to acquire subsoil only

12.—(1) The Company may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1) of article 9 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 Company acquires any part of the subsoil of land under paragraph (1) above the Company 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 18 below from applying where the Company acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Cases where powers of acquisition limited to subsoil

13.—(1) This article applies to the lands numbered on the deposited plans 1-11, 14-16, 21-22, 27, 39-49 and 52.

(2) In the case of land to which this article applies, the Company's powers of compulsory acquisition under article 9 above shall be limited to the acquisition of, or rights in, so much of the subsoil of the land as may be required for the purposes of the authorised works.

(3) Where the Company acquires any part of, or rights in, the subsoil of land to which this article applies, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) Paragraph (3) above shall not prevent section 8 of the 1965 Act or article 18 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

(5) References in this article to the subsoil of land are references to the subsoil lying more than 9 metres beneath the level of the surface of the land; and for this purpose "the level of the surface of the land" means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a river, watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or
- (c) in any other case, ground surface level.

Temporary possession of land

Temporary use of land for construction of works

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

- (a) enter upon and take temporary possession of—
 - (i) any land which it is authorised by this Order to acquire compulsorily; and
 - (ii) the land numbered 7 on the deposited plans;
- (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 land under this article the Company shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The Company 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 authorised works.

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

(5) The Company 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.

(7) Without prejudice to article 28 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 any land of which temporary possession is taken under paragraph (1) above except that the Company shall not be precluded from—

- (a) acquiring new rights over any part of that land under article 11 above, or
- (b) acquiring any part of the subsoil or rights in the subsoil of that land under article 12 above or in accordance with article 13 above.

(9) Where the Company 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

15.—(1) At any time during the maintenance period for either of the scheduled works, the Company may—

- (a) enter upon and take temporary possession of any land shown on the deposited plans and described in the book of reference which is within 20 metres of that work 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.

(2) Paragraph (1) above shall not authorise the Company 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 Company shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The Company 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 Company shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The Company 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 compensation, shall be determined under Part I of the Land Compensation Act 1961.

(8) Without prejudice to article 28 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 Company 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 specified 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.

Supplementary

Disregard of certain interests and improvements

16.—(1) In assessing the compensation (if any) payable to any person on the 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 a view to 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.

Set-off for enhancement in value of retained land

17.—(1) In assessing the compensation payable to any person in respect of the acquisition from him under this Order of any land (including the subsoil or undersurface), the tribunal shall set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to him by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from him of any new rights over land (including the subsoil or undersurface) under article 11 above, the tribunal shall set-off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required, and
 (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to him by reason of the construction of the authorised works.

(3) The Land Compensation Act 1961 shall have effect subject to paragraphs (1) and (2) above as if this Order were a local enactment for the purposes of that Act.

Acquisition of part of certain properties

18.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 10 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 Company 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 Company 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 Company is authorised to acquire compulsorily under this Order.

(8) If the Company agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without 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 Company 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 Company 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 only part of a house, building or factory or of land consisting of a house with a park or garden, the Company 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.

Extinction or suspension of private rights of way

19.—(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 Company, whether compulsorily or by agreement, or
- (b) on the entry on the land by the Company under section 11(1) of the 1965 Act,

whichever is sooner.

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

(3) Any person who suffers loss by the extinguishment or suspension of any private rights of way under this article shall be entitled to compensation to be determined, in the 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(8) (extinguishment of rights of statutory undertakers etc.) applies.

Time limit for exercise of powers of acquisition

20.—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 14 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 Company remaining in possession of land in accordance with article 14 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

Power to make agreements with Heathrow Airport Limited

21.—(1) The Company and Heathrow Airport Limited may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of the authorised works or any part thereof and as to any other matters incidental or subsidiary thereto or consequential thereon, including the defraying of or making of contributions towards costs incurred by either party to the agreement.

(2) Any such agreement may provide for the exercise by Heathrow Airport Limited, or the Company and Heathrow Airport Limited jointly, of all or any of the powers of the Company (whether under this Order or under any other enactment) in respect of the authorised works or any part thereof and for the transfer to and vesting in Heathrow Airport Limited, or the Company and Heathrow Airport Limited jointly, of those works or any part thereof together with the rights and obligations of the Company in relation thereto.

(3) Any such agreement may also provide for the use by the Company, for the purpose of the railway comprised in the authorised works, of any works or facilities constructed within the limits

of deviation or the areas described in Schedule 2 to this Order under any enactment authorising an extension of the railway authorised by the Heathrow Express Railway Act 1991⁽⁹⁾.

(4) The exercise by Heathrow Airport Limited or the Company and Heathrow Airport Limited jointly, of any of the powers of this Order shall be subject to all statutory and contractual provisions in relation thereto as would apply if those powers were exercised by the Company alone and accordingly those provisions with any necessary modifications shall apply to the exercise of such powers by Heathrow Airport Limited, or by the Company and Heathrow Airport Limited jointly.

(5) In this article references to Heathrow Airport Limited include references to any subsidiary (within the meaning of section 736 of the Companies Act 1985⁽¹⁰⁾) of Heathrow Airport Limited.

For the protection of Heathrow Airport Limited

22. The provisions of Schedule 4 to this Order shall have effect.

For the protection of the Company in the event of transfer

23. If the powers of the Company under this Order to construct the authorised works or any part thereof are transferred to another person by virtue of an agreement under article 21 above then, except as may be otherwise provided in such agreement or Order, the provisions of Schedule 5 to this Order shall apply for the protection of the Company.

Statutory undertakers, etc.

24. The provisions of Schedule 6 to this Order shall have effect.

For the protection of fuel pipelines and facilities

25. The provisions of Schedule 7 to this Order shall have effect.

Certification of plans, etc.

26. The Company 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 true copies of, respectively, 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

27.—(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⁽¹¹⁾ 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

(9) 1991 c. vii.

(10) 1985 c. 6.

(11) 1978 c. 30.

(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

28. 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

29. Any difference under any provision of this Order (other than 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.

Signed by the authority of the Secretary of State for Transport, Local Government and the Regions

Ellis Harvey
Head of the Transport and Works Act Processing
Unit,
Department for Transport, Local Government
and the Regions

9th April 2002