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STATUTORY INSTRUMENTS

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**2009 No. 2728**

**The Network Rail (Reading) (Land Acquisition) Order 2009**

**PART 2**

**ACQUISITION AND POSSESSION OF LAND**

*Powers of acquisition*

**Rights under or over highways**

9.—(1) Network Rail may enter upon and appropriate so much of the subsoil of, or air-space over, any highway within the land referred to in article 3 (power to acquire land) as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a highway without Network Rail being required to acquire any part of the highway or any easement or right in the highway.

(3) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without Network Rail acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Paragraph (2) shall not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a highway which forms part of a building fronting onto the highway.

(5) Compensation shall not be payable under paragraph (3) to any person who is an undertaker to whom section 85 of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.