
STATUTORY INSTRUMENTS

2013 No. 3244

**The Ashton Vale to Temple Meads and
Bristol City Centre Rapid Transit Order 2013**

PART 3

ACQUISITION AND POSSESSION OF LAND

Supplementary

Acquisition of part of certain properties

32.—(1) This article applies instead of section 8(1) of the 1965 Act (as applied by article 24 (application of Part 1 of the 1965 Act)) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as applied) in respect of land forming only part of a house, building or manufactory 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 promoter a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner 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 must 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 of whether the owner must be required to sell only the land subject to the notice to treat is, unless the promoter agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determines 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 must be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines 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 is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines 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 is 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 promoter is authorised to acquire compulsorily under this Order.

(8) If the promoter 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 is 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 promoter 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 promoter 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, must pay to the owner compensation for any loss or expense occasioned to the owner 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 manufactory or of land consisting of a house with a park or garden, the promoter must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Extinguishment or suspension of private rights of way

33.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

(a) as from the date of acquisition of the land by the promoter, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the promoter under section 11(1) of the 1965 Act,

whichever is sooner.

(2) Subject to the provisions of this article, all private rights of way over land owned by the promoter which is within the permanent limits and is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by the promoter.

(3) Subject to the provisions of this article, all private rights of way over land of which the promoter takes temporary possession under this Order are suspended and unenforceable for as long as the promoter remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers, etc.) or paragraph 2 of Schedule 9 (provisions relating to statutory undertakers, etc.) applies.

(6) Paragraphs (1), (2) and (3) have effect subject to—

(a) any notice given by the promoter before the completion of the acquisition of the land, the promoter's appropriation of it, the promoter's entry onto it or the promoter's taking temporary possession of it, as the case may be, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in subparagraph (a) and before or after the coming into force of this Order) between the promoter and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b) which is made with a person in or to whom the right of way is vested or belongs is expressed to have effect also for the benefit of those deriving title from or under that person, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Open space

34.—(1) The Open Space Land is not, by reason of the exercise of powers under this Order, to vest in the promoter until the promoter has acquired the Exchange Land and, upon a request made by the promoter, North Somerset Council has certified that a scheme for the provision of the Exchange Land as open space has been implemented to its satisfaction.

(2) Upon the requirements of paragraph (1) being satisfied, the Exchange Land will vest in North Somerset Council subject to the like rights, trusts and incidents as attached to the Open Space Land and, on the vesting of the Exchange Land, the Open Space Land will be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

(a) “Exchange Land” means the land in North Somerset shown numbered 01A/01, 01B/01, 02A/01 and 02B/01 on the works and land plans; and

(b) “Open Space Land” means either—

(i) if Work No. 1A is constructed, the land in North Somerset shown numbered 01A/09 and the land in the City of Bristol shown numbered 01A/11, 01A/12, 01A/13, 01A/14, 02A/04 and 04A/01 on the works and land plans; or

(ii) if Work No. 1B is constructed, the land in North Somerset shown numbered 01B/09 and 01B/10 and the land in the City of Bristol shown numbered 01B/11, 01B/12 and 04B/01, on the works and land plans.

(4) Section 19 of the Acquisition of Land Act 1981 has effect in relation to any open space within the meaning of subsection (4) of that section as if in paragraph (1)(a) of that section the words “the persons in whom the land purchased was vested” were substituted by the words “the local authority in whose area that land is situated”.

Time limit for exercise of powers of acquisition

35.—(1) After the end of the time limit—

(a) no notice to treat is to be served under Part 1 of the 1965 Act, as applied to the acquisition of land by article 24 (application of Part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied to this Order by article 25 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

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(2) The powers conferred by article 28 (temporary use of land for construction of works) will cease at the end of the period mentioned in paragraph (1), but nothing in this paragraph prevents the promoter from remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

(3) In this article “the time limit” means—

- (a) In relation to land comprised in plots numbered 09/03, 09/08 to 09/11 and 09/22, the period of 2 years beginning with the day on which this Order comes into force; and
- (b) In all other cases, the period of 5 years beginning with the day on which this Order comes into force.