
STATUTORY INSTRUMENTS

2017 No. 1329

The Boston Barrier Order 2017

PART 4

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire new rights

34.—(1) The Agency may compulsorily acquire such easements or other rights over any land referred to in article 31 (power to acquire land) as may be required for any purpose for which that land may be acquired under that article, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 (other provisions as to divided land) of the 1965 Act (as modified by Schedule 3 (modification of compensation and compulsory purchase enactments for creation of new rights), where the Agency acquires a right over land under paragraph (1) the Agency cannot be required to acquire a greater interest in that land.

(3) Schedule 3 has 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 or article 36 (new rights only to be acquired under or in certain lands) of a right over land by the creation of a new right.

(4) Paragraph (5) applies to land to which this article applies and which is used for the relocation of any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works.

(5) In relation to the land to which this paragraph applies, the power to acquire or create easements or other rights under paragraph (1) is to be treated as also authorising the acquisition or creation by a statutory undertaker in any case where the Secretary of State gives consent in writing for that acquisition or creation.

(6) The reference in paragraph (5) to a “statutory undertaker” means a licence holder within the meaning of Part 1 of the Electricity Act 1989⁽¹⁾, a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽²⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽³⁾, a sewerage undertaker, any local authority which is a relevant local authority for the purposes of section 97 (performance of sewerage undertaker’s functions by local authorities, etc.)⁽⁴⁾ of that Act and a public communications provider within the meaning of section 151 (interpretation of Chapter 1) of the Communications Act 2003⁽⁵⁾.

(1) 1989 c. 29.

(2) 1986 c. 44, as amended by section 76(2) of the Utilities Act 2000 (c. 27).

(3) 1991 c. 56, as amended by section 36(2) of the Water Act 2003 (c. 37)..

(4) Section 97 was amended by Schedule 22 to the Localism Act 2011 (c. 20), Schedule 8 to the Housing and Regeneration Act 2008 (c. 17) and Schedule 15 to the Government of Wales Act 1998 (c. 38).

(5) 2003 c. 21.

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Commencement Information

II Art. 34 in force at 2.1.2018, see [art. 1](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order excluded in part by [S.I. 2023/778 art. 41](#)