
STATUTORY INSTRUMENTS

2020 No. 1099

**The Southampton to London Pipeline
Development Consent Order 2020**

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Private rights over land

25.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition of land under this Order are extinguished or discharged—

- (a) as from the date of acquisition of the land by the undertaker whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, are extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition of rights or the imposition of restrictions under the Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right;

whichever is the earlier.

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

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 34 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the land or the acquisition of the rights over or the imposition of the restrictive covenant over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,
- that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (8) If any such agreement as is referred to in paragraph (7)(b)—
- (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) 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.

(9) References in this article to private rights over land include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

(10) Nothing in this article affects any private rights or restrictions over or affecting the Order land, or apparatus which is on, under or over the Order land, which are—

- (a) for the benefit of, or
- (b) exercisable by; or
- (c) owned by,

the undertaker or its successors in title from time to time, but, subject to paragraphs (7) and (8), not so as to preserve the interest (if any) of another person who enjoys the benefit of, or who exercises or owns any such rights or restrictions in common with the undertaker.

(11) Where a nationally significant infrastructure project is proposed to be constructed by a person other than the undertaker on, over or under the Order land—

- (a) sections 127(2) to (6) (statutory undertakers' land) apply to land (as defined by section 235(1) of the 2008 Act) acquired by the undertaker, whether compulsorily or by agreement, for the purposes of the authorised development as if—
 - (i) the reference to statutory undertakers in section 127(8) of the 2008 Act included the undertaker; and
 - (ii) the use of the land or holding of an interest in the land for the purposes of the authorised development amounted to the carrying on of a statutory undertaking for the purposes of section 127(1)(c) of the 2008 Act; and
- (b) section 138(4) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act applies as if—
 - (i) the rights acquired by the undertaker under this Order (whether compulsorily or by agreement) were a relevant right for the purposes of sections 138(1) and (2) of the 2008 Act;
 - (ii) the Works authorised to be constructed by this Order were relevant apparatus for the purposes of sections 138(1) and (3) of the 2008 Act; and
 - (iii) the reference to statutory undertakers in section 138(4A) of the 2008 Act included the undertaker,

but not in either case for any other purpose whatsoever.