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STATUTORY INSTRUMENTS

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**2020 No. 1485**

**The Network Rail (Cambridgeshire  
Level Crossing Reduction) Order 2020**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Powers of acquisition*

**Power to acquire land**

**19.**—(1) Network Rail may acquire compulsorily—

- (a) so much of the land shown on the deposited plans as lying 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 5 (acquisition of land for authorised works) (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 that are ancillary to its railway undertaking.

(2) This article is subject to paragraph (2) of article 22 (power to acquire new rights) and paragraph (8) of article 23 (temporary use of land for construction of works).

**Application of Part 1 of the 1965 Act**

**20.**—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act as so applied, has effect with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(2) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article

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(1) 1981 c. 67.

(2) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

29 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridgeshire Level Crossing Reduction) Order 2020.”

(5) In section 11(1B)(3) (power of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(4)(powers of entry: further notices of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision.”.

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 29 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridgeshire Level Crossing Reduction) Order 2020”.

(8) In Schedule 2A(5) (counter-notice requiring purchase of land not in notice to treat)—

(a) omit paragraphs 1(2) and 14(2); and

(b) after paragraph 29 insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 23 (temporary use of land for construction of works) and article 24 (temporary use of land for maintenance of works) of the Network Rail (Cambridgeshire Level Crossing Reduction) Order 2020.”

#### **Application of the 1981 Act**

**21.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A(6) (time limit for general vesting declaration).

(5) In section 5B(7) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 29 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridgeshire Level Crossing Reduction) Order 2020”.

(6) In section 6(8) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.

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(3) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

(4) Section 11A was inserted by 186(3) of the Housing and Planning Act 2016.

(5) Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.

(6) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.

(7) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(8) Section 6 was amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c.22).

(7) In section 7(9) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(10) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 19 (power to acquire land) by article 20 (application of Part 1 of the 1965 Act).

### **Power to acquire new rights**

**22.**—(1) Network Rail may acquire compulsorily such rights of access or other easements specified in column (3) of Schedule 3 (land in which private rights of access may be acquired) to the extent specified in column (1) of that Schedule as may be required for the benefit of the land specified in column (2) of that Schedule, by creating them as well as by acquiring rights of access or other easements already in existence.

(2) Network Rail may acquire compulsorily such easements or other rights over the land specified in column (2) of Schedule 6 (land in which only new rights etc., may be acquired) as may be required for the purposes specified in column (3) of that Schedule, by creating them as well as by acquiring such rights of access or other easements already in existence.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 14 (modification of compensation and compulsory purchasing enactments for creation of new rights) where Network Rail acquires a right over land under paragraphs (1) or (2), Network Rail is not required to acquire a greater interest in that land.

(4) Schedule 14 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 of a right over land by the creation of a new right.

### *Temporary possession or use of land*

### **Temporary use of land for construction of works**

**23.**—(1) Network Rail may in connection with the carrying out of the authorised works enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purposes specified in relation to that land in column (3) of that Schedule.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(3) Network Rail 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 for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to—

- (a) replace a building removed in connection with the carrying out of the authorised works; or
- (b) restore the land on which any permanent works have been constructed under article 5 (power to construct and maintain works).

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(9) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.

(10) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

(5) Network Rail must 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), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 38 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(11) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).

(8) Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

(9) Section 13(12) (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 20(1) (application of Part 1 of the 1965 Act).

### **Temporary use of land for maintenance of works**

24.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, Network Rail may—

- (a) enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining the authorised works; and
- (b) construct such temporary works (including the provision of means of access) as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise Network Rail 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 Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(4) Network Rail may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of 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, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) Network Rail must 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), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 38 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) 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).

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(11) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(12) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(9) Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 20 (application of Part 1 of the 1965 Act).

(11) In this article “the maintenance period” in relation to an authorised work means the period of one year beginning with the date on which the work is opened for use.

### *Compensation*

#### **Disregard of certain interests and improvements**

**25.**—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must 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), “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### *Supplementary*

#### **Extinction or suspension of private rights of way**

**26.**—(1) 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 Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1)(13) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) All private rights of way over land owned by Network Rail which, being within the Order limits, is required for the purposes of this Order are extinguished on the appropriation of the land for any of those purposes by Network Rail.

(3) Subject to the provisions of this article, all private rights of way over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of the acquisition of the right by Network Rail, whether compulsorily or by agreement; or

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(13) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14, of and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measures 2006 (2006 No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(b) on the date of entry on the land by Network Rail under section 11(1) of the 1965 Act, whichever is the sooner.

(4) Subject to paragraph (6), all private rights of way over land of which Network Rail takes temporary possession under this Order are suspended and unenforceable for as long as Network Rail remains in lawful possession of the land.

(5) 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.

(6) Paragraphs (1), (2), (3) and (4) have effect subject to—

(a) any notice given by Network Rail before—

(i) the completion of the acquisition of;

(ii) Network Rail's appropriation of;

(iii) Network Rail's entry onto; or

(iv) Network Rail's taking temporary possession of,

the land, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement made between Network Rail and the person in or to whom the right of way in question is vested or belongs which makes reference to this article; whether that agreement was made before or after any of the events mentioned in sub-paragraph (a), or before or after the coming into force of this Order.

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

### **Extinguishment of private rights over accommodation crossings**

27.—(1) Subject to paragraphs (3) and (4), all private rights of way (if any) over the level crossings specified in paragraph (2) are extinguished.

(2) The level crossings referred to in paragraph (1) are—

(a) Nairns No. 117 crossing between points P099 and P100 in the Parish of Stretham;

(b) Jack O'Tell (Adam's Crossing) between points P104A and P105A in the Parish of Waterbeach;

(c) Fysons crossing between points P106 and P107 in the Parish of Waterbeach; and

(d) Ballast Pit crossing between points P108 and P109 in the Parish of Waterbeach.

(3) Paragraph (1) must not take effect with respect to the extinguishment of the private rights of way by means of the level crossings specified in paragraph (2), until the authorised works relating to those crossings have been completed.

(4) Any person who suffers loss by the extinguishment 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.

### **Grant of rights over level crossings**

28.—(1) The level crossings specified in paragraph (2) are subject to continued rights of access for vehicular traffic for authorised users.

(2) The level crossings referred to in paragraph (1) are—

- (a) Silt Drove crossing between points P012 and P013 in the Parish of March;
- (b) Black Horse Drove crossing between points P136 and P137 in the Parish of Littleport; and
- (c) Westley Road crossing between points P111 and P114 in the Parish of Westley Waterless.

**Time limit for exercise of powers of acquisition**

**29.**—(1) After the end of the period of 5 years beginning on the day on which this Order comes into force—

- (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 20 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 21 (application of the 1981 Act).

(2) The powers conferred by article 22 (power to acquire new rights) and article 23 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail 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.