
STATUTORY INSTRUMENTS

2021 No. 937

**The Network Rail (Teddington
Station Access for All) Order 2021**

PART 2

ACQUISITION AND POSSESSION OF LAND

Powers of Acquisition

Power to acquire land

5.—(1) Network Rail may acquire compulsorily so much of the land shown on the deposited plans and described in the book of reference as may be required for the purposes of the authorised works or their maintenance and may use any land so acquired for those purposes.

(2) This article is subject to article 8 (power to acquire new rights) and article 11 (temporary use of land for construction works).

Application of Part 1 of the 1965 Act

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

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

(2) Part 1 of the 1965 Act, as applied by paragraph (1)(b), has effect subject to the following modifications.

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

(4) In section 4A(1)(1) (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 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 15 (time limit for exercise of powers of acquisition) of the Network Rail (Teddington Station Access for All) Order 2021”.

(5) In section 11(1B)(2) (powers 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 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 15 (time

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

(2) Sub-section (1B) was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

limit for exercise of powers of acquisition) of the Network Rail (Teddington Station Access for All) Order 2021”.

- (7) In Schedule 2A(3) (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 11 (temporary use of land for construction works) of the Network Rail (Teddington Station Access for All) Order 2021.”

Application of the 1981 Act

- 7.—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect subject to 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(4) (time limit for general vesting declaration).
- (5) In section 5B(1)(5) (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 15 (time limit for exercise of powers of acquisition) of the Network Rail (Teddington Station Access for All) Order 2021”.
- (6) In section 6(6) (notices after execution of general vesting 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”.
- (7) In section 7(7) (constructive notice to treat) in sub-section (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) In Schedule A1(8) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (9) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 5 (power to acquire land) by article 6 (application of Part 1 of the 1965 Act).

Power to acquire new rights

8.—(1) Subject to paragraph (3), Network Rail may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 5 (power to acquire land)

-
- (3) Schedule 2A was inserted by paragraph 3 of Schedule 17 to, the Housing and Planning Act 2016.
- (4) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
- (5) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.
- (6) 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) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.
- (8) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

as may be required for any purpose for which that land may be acquired under that provision by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the land specified in columns (1) and (2) of Schedule 2 (land in which only new rights may be acquired) Network Rail's powers of compulsory acquisition are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

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

(4) Schedule 5 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.

Power to acquire subsoil or airspace only

9.—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 5 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where Network Rail acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), Network Rail is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article 6 (application of Part 1 of the 1965 Act)) or Schedule A1 to the 1981 Act (as modified by article 7 (application of the 1981 Act)) from applying where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

10.—(1) Network Rail may enter upon and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised works and may use the subsoil or airspace for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), Network Rail may exercise any power conferred by paragraph (1) in relation to a street without Network Rail being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does 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 street which forms part of a building fronting onto the street.

(4) 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, is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary Possession of Land

Temporary use of land for construction works

- 11.**—(1) Network Rail may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 1 to this Order for the purpose specified in relation to that land in column (3); and
 - (ii) subject to paragraph (10), any other land within the Order limits in respect of which no notice of entry has been served under section 11(1)(9) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
 - (b) remove any buildings, and vegetation from that land;
 - (c) construct temporary works (including the provision of means of access) and buildings on that land; and
 - (d) in respect of the land referred to in paragraph (a)(ii) construct any permanent works forming part of the authorised works or any mitigation works on that land.
- (2) Not less than 14 days before entering upon and taking temporary possession of land under this article Network Rail shall 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—
- (a) in the case of land specified in paragraph 1(a)(i) after the end of the period of one year beginning with the date of completion of the work for which temporary possession of this land was taken; or
 - (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless Network Rail has, before the end of that period, served a notice of entry under section 11(10) of the 1965 Act or made a declaration under section 4(11) of the 1981 Act.
- (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 paragraph (1)(d).
- (5) Network Rail shall 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 (4), or as to the amount of the compensation, shall be determined as if it were a dispute under Part 1 of the 1961 Act.

(9) Section 11(1) was amended by section 34(1) of and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12 of Schedule 4 to, the Church of England (Miscellaneous Provisions) Measure 2006 (no. 1) and section 186(1) and (2) of the Housing and Planning Act 2016.

(10) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981, 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) Measure 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 and S.I. 2009/1307.

(11) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(7) Without prejudice to article 25 (no double recovery), nothing in this article shall affect 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 (4).

(8) Where Network Rail takes possession of land under this article, it shall not be 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 pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 6(1) (application of Part 1 of the 1965 Act).

(10) Paragraph (1)(a)(ii) does not authorise Network Rail to take temporary possession of any land which it is not authorised to acquire under article 5 (power to acquire land).

Compensation

Disregard of certain interests and improvements

12.—(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.

Set-off for enhancement in value of retained land

13.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set-off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 8 (power to acquire new rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to him by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

(12) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 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).

Supplementary

Extinction or suspension of private rights of way

14.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be 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 the Network Rail under section 11(1) 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) 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.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, as if it were a 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(13) (extinguishment of rights of statutory undertakers etc) of the 1990 Act or paragraph 2 of Schedule 6 (provisions relating to statutory undertakers, etc.) to this Order applies.

Time limit for exercise of powers of acquisition

15.—(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 6 (application of Part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 7 (application of the 1981 Act).

(2) The powers conferred by article 8 (power to acquire new rights) and article 11 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent Network Rail 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.

Power to survey and investigate land

16.—(1) Network Rail may for the purposes of this Order—

(a) survey or investigate any land shown within the Order limits or which may be affected by the authorised works;

(b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;

- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).
- (2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Notice given in accordance with paragraph (2) must include—
- (a) a statement of the recipient's rights under paragraph (14); and
 - (b) a copy of any warrant issued under paragraph (7).
- (4) If Network Rail proposes to do any of the following, the notice must include details of what is proposed—
- (a) searching, boring or excavating;
 - (b) leaving apparatus on the land;
 - (c) taking samples; or
 - (d) an aerial survey.
- (5) If Network Rail obtains a warrant after giving notice in accordance with paragraph (2) it must give a copy of the warrant to all those to whom it gave a notice.
- (6) Any person entering land under this article on behalf of Network Rail—
- (a) must, if so required, before or after entering the land produce written evidence of authority to do so including any warrant issued under paragraph (7);
 - (b) may not use force unless a justice of the peace has issued a warrant under paragraph (7) authorising the person to do so;
 - (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes;
 - (d) may only enter and survey land at a reasonable time; and
 - (e) must, if the land is unoccupied or the occupier is absent from the land when the person enters it, leave it as secure against trespassers as when the person entered it.
- (7) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—
- (a) that another person has prevented or is likely to prevent the exercise of that power, and
 - (b) that it is reasonable to use force in the exercise of that power.
- (8) The force that may be authorised by a warrant is limited to that which is reasonably necessary.
- (9) A warrant authorising the person to use force must specify the number of occasions on which Network Rail can rely on the warrant when entering and surveying or valuing land.
- (10) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- (11) Any evidence in proceedings for a warrant under this article must be given on oath.
- (12) No trial holes are to be made under this article in a carriageway or footway without the consent of the relevant street authority but such consent must not be unreasonably withheld.
- (13) If a street authority which receives an application for consent fails to notify Network Rail of its decision within 28 days of receiving the application for consent that authority is deemed to have granted consent.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(14) Network Rail must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.