



British Railways (No. 2) Act 1992

1992 CHAPTER xi

PART IV

LAND

General lands provisions

30 Purchase of part of certain properties

- (1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.
- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the Board a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Board agree to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if, on such a reference to the tribunal, the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without such detriment and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If, on such a reference to the tribunal, the tribunal determine that part only 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 such detriment and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

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- (5) If, on such a reference to the tribunal, the tribunal determine that 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 that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be 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 Board are authorised to purchase compulsorily under this Act.
- (6) If the Board agree to take the land subject to the counter-notice, or if the tribunal determine 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 such detriment 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 shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of the land is land which the Board are authorised to purchase compulsorily under this Act.
- (7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Board may, within six weeks after the tribunal make their determination, withdraw the notice to treat and, if they do so, shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal:

Provided that the determination of the tribunal shall not be deemed to be made so long as—

- (a) the time for requiring the tribunal to state a case with respect thereto has not expired and any proceedings on the points raised by a case so stated have not been concluded; or
 - (b) any proceedings on appeal from any decision on the points raised by a case so stated have not been concluded.
- (8) (a) Where a person is required under this section to sell part only of a house, building or factory, or land consisting of a house, together with any park or garden belonging thereto, the Board shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.
- (b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of compensation shall be determined by the tribunal.

31 Disregard of recent improvements and interests

In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall 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 (whether on the land purchased or on any other land with which the claimant is, or was at the

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time of the erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned):

if the tribunal are 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, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

32 Extinction or suspension of private rights of way

- (1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement, or on the entry on the land under section 11(1) of the Act of 1965 as applied by this Act, whichever is sooner.
- (2) All private rights of way over any land of which the Board may take temporary possession under this Act shall be suspended and unenforceable against the Board for so long as the Board shall remain in lawful possession thereof.
- (3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

33 Correction of errors in deposited plans and book of reference

- (1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Board after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.
- (2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Board to take the land and execute the works in accordance with the certificate.
- (4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

34 Cellars under streets not referenced

Nothing in this Act shall authorise the Board to purchase compulsorily or use (except by agreement) any cellar or vault in or under any street belonging to or connected with any building unless the cellar or vault or the building with which it is connected is described in the deposited book of reference.

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35 Set-off for enhancement in value of retained land

- (1) In this section “relevant land” means any land purchased, or any land in or over which any new rights are purchased, by the Board for the purposes of the works.
- (2) In assessing the compensation payable to any person on the purchase by the Board from him of any relevant land or any rights therein, the tribunal shall—
 - (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works; and
 - (b) set off against the value of the relevant land any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

36 Time for purchase of land and rights over land

The powers of the Board for the compulsory purchase of land and rights in or over land under this Act shall cease on 31st December 1995.