
STATUTORY INSTRUMENTS

1998 No. 3269

**The Tyne and Wear Passenger
Transport (Sunderland) Order 1998**

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

21.—(1) The undertaker may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation or the further limits and described in the book of reference as may be required for the purposes of or in connection with the authorised works and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its railway undertaking.

(2) Without prejudice to the generality of paragraph (1) above, the undertaker may acquire compulsorily for the purposes specified in column (1) of Schedule 6 to this Order all or any of the land shown on the deposited plans within the further limits and so described in the book of reference as is referred to in columns (2) and (3) of that Schedule.

(3) This article is subject to articles 26(2), 28 and 29(8) below.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981⁽¹⁾ shall apply as if this Order were a compulsory purchase order.

(a) (2) (a) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(b) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and

(b) published in the London Gazette and in one or more local newspapers circulating in the locality of the authorised works.”.

(c) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”.

(1) 1981 c. 66.

- (d) In that section, subsections (5) and (6) shall be omitted and at the end there shall be substituted—
- “(5) For the purposes of this section, a person has a relevant interest in land if—
- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.
- (e) In section 5 (earliest date for execution of declaration)—
- (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in one or more local newspapers circulating in the area in which the land is situated”, and
- (ii) subsection (2) shall be omitted.
- (f) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.
- (g) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 21 above.

Application of Part I of Compulsory Purchase Act 1965

23.—(1) Part I of the 1965 Act, insofar 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(2) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.
- (2) Part I of the 1965 Act, as so applied, shall have effect as if—
- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
- (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month; or
- (ii) in any other case, a reference to notice of 3 months.

Powers to acquire new rights

24.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 21 above (subject to paragraph (3) of that article) 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) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have 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.

Powers to acquire subsoil only

25.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1) of article 21 above (subject to paragraph (3) of that article) 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 the undertaker acquires any part of the subsoil of land under paragraph (1) above it shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent article 33 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Cases where powers of acquisition limited to subsoil

26.—(1) This article applies to the lands in the city of Sunderland numbered 34 to 40 in the book of reference and on the deposited plans.

(2) In the case of land to which this article applies, the undertaker's powers of compulsory acquisition under article 21 above shall be limited to the acquisition of, or of rights in, so much of the land as is comprised in the existing Sunderland North tunnel (including the subsoil beneath the tunnel) as may be required for the purposes of the authorised works.

(3) Where the undertaker acquires any part of, or rights in, land to which this article applies, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) This article is without prejudice to sub-paragraph (2) of paragraph 5 of Schedule 10 to this Order.

Rights under or over streets

27.—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the limits of deviation or the further limits as may be required for the purposes of or in connection with the authorised works and may use the subsoil and air-space for those purposes or any other purpose connected with or ancillary to the Sunderland extension.

(2) The power under paragraph (1) above may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street.

(3) The undertaker shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) above where the street is a highway; but where the street is not a highway any person suffering loss by the exercise of that power shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

(4) Paragraphs (2) and (3) above shall not apply in relation to—

- (a) any subway or underground building,
- (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

Certain lands etc. not to be acquired compulsorily

28. Nothing in this Order shall authorise the undertaker to acquire compulsorily any of the lands mentioned in Schedule 8 to this Order, or any rights over those lands, but the undertaker may acquire

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by agreement any part of those lands, or any rights over them, for the purposes of the Sunderland extension.