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STATUTORY INSTRUMENTS

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**2000 No. 428**

**Knowsley Industrial Park (Rail Terminal) Order 1999**

**PART III**

**ACQUISITION AND POSSESSION OF LAND**

*Powers of acquisition*

**Power to acquire land**

**10.** The Council may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for 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 undertaking authorised by this Order.

**Application of Part I of Compulsory Purchase Act 1965**

**11.—**(1) Part I 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(1) 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 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.

**Vesting Declarations**

**12.—**(1) The Compulsory Purchase (Vesting Declarations) Act 1981(2) shall apply as if this Order were a compulsory purchase order.

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

(3) 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

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(1) 1981 c. 67.  
(2) 1981 c. 66.

(b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) 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.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) 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.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 11 above.

### **Powers to acquire new rights**

**13.**—(1) The Council may compulsorily acquire such easements or other rights over any land referred to in article 10 above 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 3 to this Order), where the Council acquires a right over land under paragraph (1) above it shall not be required to acquire a greater interest in it.

(3) Schedule 3 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**

**14.**—(1) The Council may compulsorily acquire so much of the subsoil of the land referred to in article 10 above 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 Council 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 16 below from applying where the Council acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

## *Compensation*

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

**15.—**(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, 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 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) above “relevant land” means the land acquired from the person concerned or any other land with which he 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*

### **Acquisition of part of certain properties**

**16.—**(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 11 above) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Council a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the Council agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house;

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or

- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice 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.

(7) If on such a reference the tribunal determine that—

- (a) 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
- (b) 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 Council is authorised to acquire compulsorily under this Order.

(8) If the Council agrees 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 material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) that 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 that land is land which the Council is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Council may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, if it does so, shall pay to the owner 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.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the Council shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

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

**17.—(1)** All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

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

whichever is sooner.

(2) All private rights of way over land owned by the Council which is within the limits of land which may be acquired shown on the deposited plans and is required for the purposes of this Order, shall be extinguished on the appropriation of the land for any of those purposes by the Council.

(3) 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, under Part I of the 1961 Act.

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

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

**18.** No notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 11 above after the end of the period of 5 years beginning with the day on which this Order comes into force.

#### **Public Open Space**

**19.—(1)** The Council shall not under the powers of this Order acquire compulsorily any interest in the public open space comprised in the lands numbered 10 and 13 in the book of reference and coloured red on the public open space and exchange land plans until the Council has acquired the land coloured green on those plans and numbered 12 in the book of reference.

(2) The land so shown coloured green shall vest in the Council subject to the like rights, trusts and incidents as attached to the land shown coloured red and upon its acquisition by the Council the land shown coloured red shall be discharged from all rights, trusts and incidents to which it was previously subject.

(3) The Council shall lay the land shown coloured green on the public open space and exchange land plans out as replacement public open space before the authorised works are first brought into public use pursuant to the powers of article 20 below.