
STATUTORY INSTRUMENTS

2001 No. 2870

The Railtrack (Shortlands Junction) Order 2001

PART III

ACQUISITION AND POSSESSION OF LAND

Power of acquisition

Power to acquire land

13.—(1) Railtrack 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 purpose or for any other purposes connected with or ancillary to its railway undertaking.

(2) This article is subject to article 16(8) below.

Application of Part I of the Compulsory Purchase Act 1965

14.—(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 provisions as to the giving of bonds) were omitted.

Power to acquire new rights

15.—(1) Railtrack may compulsorily acquire such easements or other rights over any land referred to in article 13 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) Railtrack may compulsorily acquire a permanent right of access for the purpose of maintaining the authorised works along such route (limited to 5 metres in width) as it may reasonably require over the land shown numbered 18b on the deposited plans.

(3) Railtrack may compulsorily acquire such soil nailing rights in the subsoil of the land shown numbered 2 on the deposited plans as it considers necessary or expedient in connection with the construction of the authorised works.

(4) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 2 to this Order), where Railtrack acquires a right over land under this article it shall not be required to acquire a greater interest in it.

(5) Paragraph (1) above shall be treated as also authorising acquisition of easements or other rights by a statutory utility in any case where the Secretary of State gives his consent in writing.

(6) Paragraph (5) above applies to land within the limits of deviation which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the works authorised by this Order; and in that paragraph “statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989⁽²⁾, a public gas transporter within the meaning of Part I of the Gas Act 1986⁽³⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽⁴⁾, a sewerage undertaker within Part I of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

(7) Schedule 2 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.

(8) In this article “soil nailing rights” means rights to insert soil nails into the subsoil or to carry out other subsoil works for the purposes of strengthening and stabilising the railway cutting.

(9) References in this article to the subsoil of land are references to the subsoil lying more than one metre beneath the level of the surface of the land; and for this purpose “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building; or
- (b) in any other case, ground surface level.

⁽²⁾ 1989 c. 29.

⁽³⁾ 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

⁽⁴⁾ 1991 c. 56.