
STATUTORY INSTRUMENTS

2005 No. 120

The Merseytram (Liverpool City Centre to Kirkby) Order 2005

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

29.—(1) Merseytravel may acquire compulsorily so much of the land shown on the works and land plans as lying within the permanent limits 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 tram system undertaking.

(2) Nothing in paragraph (1) shall authorise Merseytravel to acquire compulsorily any of the lands mentioned in Schedule 3 to this Order, or any rights over those lands, but Merseytravel may acquire by agreement any part of those lands, or any rights over them, and use them, for the purposes referred to in that paragraph.

(3) This article is subject to articles 34 and 35(2).

Application of Part I of the Compulsory Purchase Act 1965

30.—(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.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

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

(2) In its application by virtue of paragraph (1), 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) 1981 c. 67.
(2) 1981 c. 66.

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) 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 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 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 Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 30.

Powers to acquire new rights

32.—(1) Merseytravel may compulsorily acquire such easements or other rights over any land within the permanent limits as may be required for any purpose for which that land may be acquired, 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 Merseytravel acquires a right over land under paragraph (1) Merseytravel shall not be required to acquire a greater interest in that land.

(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 or article 34 of a right over land by the creation of a new right.

Powers to acquire subsoil only

33.—(1) Merseytravel may compulsorily acquire so much of the subsoil of the land within the permanent limits as may be required for any purpose for which that land may be acquired instead of acquiring the whole of the land.

(2) Where Merseytravel acquires any part of the subsoil of land under paragraph (1) Merseytravel shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 39 from applying where Merseytravel acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

New rights only to be acquired in certain lands

34.—(1) In the case of the land specified in Schedule 8 to this Order Merseytravel’s powers of compulsory acquisition under article 29 shall be limited to the acquisition of such easements or other new rights in the land as it may require for the purposes of exercising the powers of article 19(1) and using and maintaining any apparatus affixed in the exercise of those powers.

(2) Where Merseytravel acquires easements or other new rights in the land specified in Schedule 8, article 32(2) shall apply as it applies to the acquisition of a new right under that article.

Rights under or over streets

35.—(1) Merseytravel may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the works and land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air-space for those purposes or any other purpose connected with or ancillary to its tram system undertaking.

(2) The power under paragraph (1) may be exercised in relation to a street without Merseytravel being required to acquire any part of the street or any easement or right in the street and, except in relation to a street which is subject to stopping up pursuant to article 11, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) 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 Merseytravel acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation, the amount of such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(4) Paragraph (2) shall 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 on to the street.

(5) Compensation shall not be payable under paragraph (3) to any person who is an undertaker, to whom section 85 of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.