
STATUTORY INSTRUMENTS

2006 No. 3117

The Network Rail (Thameslink 2000) Order 2006

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

24.—(1) Subject to paragraph (2), Network Rail may acquire compulsorily—

- (a) 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
- (b) so much of the land specified in columns (1) and (2) of Part 1, 2, 3 or 4 of Schedule 2 (additional works and land) to this Order as may be required for the purpose specified in relation to that land in column (3) of that Schedule,

and may use any land so acquired for those purposes or for any other purposes ancillary to its railway undertaking.

(2) Network Rail shall not under the powers of this Order acquire compulsorily any interest in the land numbered 397, 536 and 542 on the deposited plans in the London borough of Southwark.

(3) Network Rail shall not under the powers of this Order acquire compulsorily any greater interest in the land numbered 540 in the London borough of Southwark than is necessary—

- (a) as a means of access over London Bridge Street for the construction of the London Bridge works; and
- (b) to carry out any related protective works to strengthen the cellar roofs comprising part of that land numbered 540.

(4) This article is subject to articles 29(8) (temporary use of land for construction of works) and 34 (saving for regulated rights etc.).

Application of Part 1 of the Compulsory Purchase Act 1965

25.—(1) Part 1 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(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as so applied, shall have effect as if—

(1) 1981 c. 67.

- (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

26.—(1) Network Rail may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 24 (power to acquire land) 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 Network Rail acquires a right over land under paragraph (1) it shall not be required to acquire a greater interest in it.

(3) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) 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.

(4) In relation to land to which this paragraph applies, article 24 (power to acquire land), so far as relating to the acquisition or creation of easements or other rights by virtue of paragraph (1), shall be treated as also authorising acquisition by a statutory utility in any case where the Secretary of State gives his consent in writing.

(5) Paragraph (4) applies to land within the Order limits 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 1 of the Electricity Act 1989⁽²⁾, a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽³⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽⁴⁾, a sewerage undertaker within the meaning of Part 1 of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

Powers to acquire subsoil only

27.—(1) Network Rail may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 24 (power to acquire land) 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 Network Rail acquires any part of the subsoil of land under paragraph (1) it shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 31 (acquisition of part only of certain properties) from applying where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

(2) 1989 c. 29.

(3) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995, c. 45, and was further amended by section 76 of the Utilities Act 2000, c. 27.

(4) 1991 c. 56.

Rights under streets

28.—(1) Network Rail may enter upon and appropriate so much of the subsoil of any street within the Order limits as may be required for the purposes of the authorised works and may use the subsoil for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without Network Rail being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (4), Network Rail shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) where the street is a highway; but where the street is not a highway any owner or occupier of subsoil suffering loss by the entry upon and appropriation of such subsoil shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

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

(5) Nothing in paragraph (3) shall relieve Network Rail from liability to compensate any person under section 10(2) of the 1965 Act or under Part 1 of the 1973 Act as applied by this Order, arising from the exercise of the powers conferred by paragraph (1).