
STATUTORY INSTRUMENTS

2021 No. 299

**The Network Rail (Ferryboat Lane Footbridge
Reconstruction) (Land Acquisition) Order 2021**

PART 2

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

3. Network Rail may acquire compulsorily so much of the land shown numbered 3 and 5 on the deposited plan and described in the book of reference as may be required for the purposes of the development and may use any land so acquired for those purposes, or for any other purposes that are ancillary to its railway undertaking as existing from time to time.

Application of Part 1 of the 1965 Act

4.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies 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 applied by paragraph (1), has effect with the following modifications.

(3) Omit section 4(2) (time limit for giving notice to treat).

(4) In section 4A(1)(3) (extension of time limit during challenge), for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 10 (time limit for exercise of powers of acquisition) of the Network Rail (Ferryboat Lane Footbridge Reconstruction) (Land Acquisition) Order 2021”.

(5) In section 11A(4) (powers of entry: further notices of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(1) 1981 c. 67.

(2) Section 4 was inserted by section 182(1) of the Housing and Planning Act 2016 (c. 22).

(3) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016.

(4) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(6) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 10 (time limit for exercise of powers of acquisition) of the Network Rail (Ferryboat Lane Footbridge Reconstruction) (Land Acquisition) Order 2021”.

- (7) In Schedule 2A(5) (counter-notice requiring purchase of land not in notice to treat)—
- (a) omit paragraphs 1(2) and 14(2); and
 - (b) after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 6 (temporary use of land in connection with the development) of the Network Rail (Ferryboat Lane Footbridge Reconstruction) (Land Acquisition) Order 2021.”.

Application of the 1981 Act

- 5.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 5(6) (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (4) Omit section 5A(7) (time limit for general vesting declaration).
- (5) In section 5B(8) (extension of time limit during challenge), for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 10 (time limit for exercise of powers of acquisition) of the Network Rail (Ferryboat Lane Footbridge Reconstruction) (Land Acquisition) Order 2021”.
- (6) In section 6(9) (notices after execution of declaration), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.
- (7) In section 7(10) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) In Schedule A1(11) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (9) References to the 1965 Act are to be construed as references to that Act as applied to the acquisition of land under article 3 (power to acquire land) by article 4 (application of Part 1 of the 1965 Act).

(5) Section 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.
(6) Section 5 was amended by paragraphs 4 and 6 of Schedule 15 to the Housing and Planning Act 2016.
(7) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
(8) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.
(9) Section 6 was amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraphs 4 and 7 of Schedule 15 to the Housing and Planning Act 2016.
(10) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.
(11) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

Temporary possession or use of land

Temporary use of land in connection with the development

6.—(1) Subject to the provisions of article 11 (statutory undertakers, etc.), Network Rail may, in connection with the development, enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 1 (land of which temporary possession may be taken) for the purposes described in column (3) of that Schedule.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article, Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to replace a building removed in connection with the implementation of the development or remove any part of the new public right of way provided in connection with the development.

(5) Network Rail must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 14 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(12) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

(9) Section 13(13) (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 4 (application of Part 1 of the 1965 Act).

Temporary use of land for oversailing and access

7.—(1) Network Rail may enter upon and use the land, and the airspace above the surface of the land, specified in Schedule 2 (land which may be used for oversailing and access)—

- (a) for the oversailing of cranes used by Network Rail in connection with the development; and
- (b) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of, or in connection with, the construction of the development.

(2) The power under paragraph (1) is exercisable on giving at least 7 days' notice to the owners and occupiers of the land or, where access is urgently required under paragraph (1)(b), such notice as is reasonably practicable.

(12) Section 10 was amended by paragraph 13(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(13) Section 13 was amended by section 139 of, and paragraphs 27 and 28 of Schedule 13 to, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(3) Paragraph (2) does not require notice to be given in relation to land used under paragraph (1) (b) where notice under that paragraph has already been given in relation to that land.

(4) Network Rail may not, without the agreement of the owners of the land, use airspace above the surface of the land as mentioned in paragraph (1)(a) after the end of 7 days beginning with the date of completion of the activities for which the crane has been used.

(5) Network Rail must pay compensation to the owners and occupiers of land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 4 (application of Part 1 of the 1965 Act).

Compensation

Disregard of certain interests and improvements

8.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must 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), “relevant land” means the land acquired from the person concerned or any other land with which that person 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

Extinction of private rights of way

9.—(1) All private rights of way over the land shown numbered 5 on the deposited plan are extinguished on entry by Network Rail on that land in connection with the development.

(2) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(3) Paragraph (1) has effect subject to—

- (a) any notice given by Network Rail before—
 - (i) the completion of the acquisition of;
 - (ii) Network Rail's appropriation of; or
 - (iii) Network Rail's entry onto,

the land, that paragraph (1) does not apply to any right of way specified in the notice; and

- (b) any agreement made (whether before or after any of the events mentioned in subparagraph (a) and before or after the coming into force of this Order) which makes

reference to this article between Network Rail and the person in or to whom the right of way in question is vested or belongs.

(4) If any such agreement as is mentioned in paragraph (3)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Time limit for exercise of powers of acquisition

10.—(1) After the end of the period of 5 years beginning on the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 4 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4(14) (execution of declaration) of the 1981 Act as applied by article 5 (application of the 1981 Act).

(2) The powers conferred by article 6 (temporary use of land in connection with the development) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail from remaining in possession of land after the end of that period if the land was entered and possession of it was taken before the end of that period.