
STATUTORY INSTRUMENTS

2001 No. 3682

The London Underground (East London
Line Extension) (No. 2) Order 2001

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

18.—(1) Subject to paragraph (3) below, the Company may acquire compulsorily—

- (a) so much of the land shown on the deposited plans within the limits of deviation for the scheduled works as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 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 connected with or ancillary to its railway undertaking.

(2) Without prejudice to the generality of paragraph (1) above, the land which may be acquired compulsorily under that paragraph shall include land which is or will be required—

- (a) for use in mitigating the effect on the environment of any of the works authorised by this Order;
- (b) for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of any of the works authorised by this Order; or
- (c) for the purpose of being given in exchange for land forming part of a common, open space or fuel or field garden allotment which is acquired under paragraph (1) above.

(3) The Company shall not under the powers of this Order acquire compulsorily any interest in the lands delineated on the deposited plans and thereon numbered 63 in the London borough of Lewisham.

(4) In this article—

“apparatus” has the same meaning as in article 6(3) above and includes apparatus belonging to a statutory utility;

“common” includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882(1) and any town or village green;

“fuel or field garden allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

(1) 1845 c. 118. 1846 c. 70. 1847 c. 111. 1848 c. 99. 1849 c. 83. 1851 c. 10. 1852 c. 79. 1857 c. 31. 1859 c. 43. 1868 c. 89. 1876 c. 56. 1878 c. 56. 1879 c. 37. 1882 c. 15.

“open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground; and

“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.

Application of Part I of the Compulsory Purchase Act 1965

19.—(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 1981 Act 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 by paragraph (1) above, shall have effect as if—

- (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.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

20.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981⁽⁵⁾ shall apply as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied by paragraph (1) above, 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
- (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, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

(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.

(5) 1981 c. 66.

- (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)—
- (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette and in a local newspaper circulating in the area in which the land is situated”; and
 - (ii) 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 18 above.

Powers to acquire new rights

21.—(1) Subject to article 18(3) above, the Company may acquire compulsorily such easements or other rights over any land referred to in paragraph (1) (a) or (b) of article 18 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 7 to this Order), where the Company acquires a right over land under paragraph (1) above the Company shall not be required to acquire a greater interest in it.

(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 of a right over land by the creation of a new right.

(4) Without prejudice to the generality of paragraph (1) above, the rights which may be acquired under that paragraph include the acquisition of—

- (a) rights for the use of John Williams Close in the London borough of Lewisham to provide train passengers, visitors to the station proposed to be constructed as part of Work No. 5 and visitors to Bridge House Meadows, a means of pedestrian access between that station, Surrey Canal Road and Hornshay Street in the London borough of Lewisham; and
- (b) rights for the use of Juno Way in the London borough of Lewisham to provide occupiers of, and visitors to premises, an alternative means of vehicular access in consequence of the construction by the Company of Works Nos. 9, 10, 11 and 14.

Rights under streets

22.—(1) The Company may enter upon and appropriate so much of the subsoil of any street shown within the limits as may be required for the purposes of the authorised works and may use the subsoil for those purposes or any other purpose connected with or ancillary to its railway undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the Company being required to acquire any part of the street or any easement or right in the street.

(3) Any person, who is an owner or occupier of land in which the power of appropriation conferred by paragraph (1) above is exercised without the Company 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 to be determined, in case of dispute, under Part I of the 1961 Act.

(4) Paragraph (2) above 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.

Temporary possession of land

Temporary use of land for construction of works

23.—(1) The Company may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Part II of Schedule 8 to this Order for the purposes specified in relation to that land in column (3) of that Part of the Schedule relating to the authorised work so specified in column (4) of that Part of the Schedule;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on the land;
- (d) use part of the land delineated on the deposited plans and numbered 12 in the London borough of Lewisham, as a temporary alternative route between the points F2 and A1 for the purpose of article 7(2)(b) above until completion of the new footpath to be constructed between points F2 and F3; and
- (e) use the land for the purposes of a working site with access to the working site for construction purposes in connection with the authorised works.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the Company shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The Company 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 authorised works.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Company shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Company shall not be required to replace a building removed under this article.

(5) The Company shall 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) above, or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

(7) Without prejudice to article 43 below, nothing in this article shall affect any liability to pay compensation under section 10(2) 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) above.

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) above.

(9) Where the Company takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) In this article "building" includes structure or any other erection.

Compensation

Disregard of certain interests and improvements

24.—(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

25.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 19 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 manufactory 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 Company 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 Company 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 Company is authorised to acquire compulsorily under this Order.

(8) If the Company 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) 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 Company 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 Company 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 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 Company 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

26.—(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 Company, whether compulsorily or by agreement; or
- (b) on the entry on the land by the Company under section 11(1) of the 1965 Act;

whichever is sooner.

(2) All private rights of way over land of which the Company takes temporary possession under this Order shall be suspended and unenforceable for as long as the Company remains in lawful possession of the land.

(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.) or paragraph 2 of Schedule 9 to this Order applies.

Time limit for exercise of powers of acquisition

27.—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 23 above to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) Paragraph (1) above shall not prevent the Company remaining in possession of land in accordance with article 23 after the end of that period, if the land was entered and possession of it was taken before the end of that period.