
STATUTORY INSTRUMENTS

2002 No. 1064

The Heathrow Express Railway Extension Order 2002

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

9. Subject to article 13 and article 14 below, the undertaker may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation and described in the book of reference as may be required for the purposes of the authorised works and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its railway undertaking.

Application of Part I of the Compulsory Purchase Act 1965

10.—(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—

- (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

11.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 9 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.

(1) 1981 c. 67.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 2 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) 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.

Powers to acquire subsoil only

12.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1) of article 9 above 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) Subject to paragraph (3) below, where the undertaker acquires any part of the subsoil or land under paragraph (1) above the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent section 8 of the 1965 Act or article 18 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Cases where powers of acquisition limited to subsoil

13.—(1) This article applies to the lands numbered on the deposited plans 1 to 20, 22 to 25, 27 to 39 and 41.

(2) In the case of land to which this article applies, the undertaker's powers of compulsory acquisition under article 9 above shall be limited to the acquisition of, or rights in, so much of the subsoil of the land as may be required for the purposes of the authorised works.

(3) Where the undertaker acquires any part of, or rights in, the subsoil of land to which this article applies, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) Paragraph (3) above shall not prevent section 8 of the 1965 Act or article 18 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

(5) References in this article to the subsoil of land are references to the subsoil lying more than 9 metres 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;
- (b) in the case of a river, watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or
- (c) in any other case, ground surface level.