

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED WORKS

In the following table—

“the 1853 Act” means the Midland Railway (Leicester and Hitchin) Act 1853⁽¹⁾;

“the 1873 Act” means the Midland Railway (Additional Powers) Act 1873⁽²⁾;

“the 1876 Act” means the Midland Railway (New Works, &c.) Act 1876⁽³⁾;

“the 1845 Clauses Act” means the Railways Clauses Consolidation Act 1845⁽⁴⁾.

<i>(1)</i> <i>Number of land shown on the deposited plans</i>	<i>(2)</i> <i>Description of work</i>	<i>(3)</i> <i>Authorising Act</i>
601 to 634	Reconstruction of bridge 83 carrying Irthlingborough Road over the Midland Main Line railway	Section 16 (works to be executed) of the 1845 Clauses Act as incorporated with the 1853 and 1873 Acts.
201 to 204	Attaching apparatus to Sharnbrook Viaduct	Section 16 (works to be executed) of the 1845 Clauses Act as incorporated with the 1853, 1873 and 1876 Acts.
501 to 504	Attaching apparatus to Irchester Viaduct	Section 16 (works to be executed) of the 1845 Clauses Act as incorporated with the 1853, 1873 and 1876 Acts.
801 to 804	Attaching apparatus to Harpers Brook Viaduct	Section 16 (works to be executed) of the 1845 Clauses Act as incorporated with the Midland Railway (Additional Powers) Act 1874 ⁽⁵⁾ .

(1) 1853 c. cviii.
 (2) 1873 c. ccx.
 (3) 1876 c. cxlv.
 (4) 1845 c. 20.
 (5) 1874 c. clx.

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SCHEDULE 2

Article 4 and 11

LAND OVER WHICH TEMPORARY RIGHTS OF ACCESS MAY BE EXERCISED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
County of Northamptonshire	601, 602
District of Wellingborough	

SCHEDULE 3

Article 7

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which rights may be acquired</i>
County of Bedfordshire Borough of Bedford Parishes of Felmersham and Sharnbrook	201 to 204	Attaching apparatus to existing railway infrastructure
County of Northamptonshire District of Wellingborough Parish of Irchester	501 to 504	Attaching apparatus to existing railway infrastructure
Districts of Kettering and Corby Parish of Newton and Little Oakley	801 to 804	Attaching apparatus to existing railway infrastructure

SCHEDULE 4

Article 7

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply with the necessary modifications as respects compensation in the case of a

compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enter on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 5(5) of Schedule 4 to the Network Rail (London to Corby)(Land Acquisition) Order 2020 (“the 2020 Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 4 to the 2020 Order) to acquire an interest in the land; and
- (c) the acquiring authority enter on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(6) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for the words “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for the words “acquired or taken from him” substitute “over which the right is exercisable”.

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by article 5 (application of Part 1 of the 1965 Act) to the acquisition of land under article 4 (power to acquire land), applies to the compulsory acquisition of rights under article 7(1) or (2) (power to acquire new rights)—

- (a) with the modification specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(3) For section 7 (measure of compensation in the case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land

(6) 1973 c. 26.

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of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc.);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

(5) Section 11(7) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 5(1)), it has power, exercisable in the equivalent circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right; and sections 11A(8) (powers of entry: further notices of entry), 11B(9) (counter-notice requiring possession to be taken on specified date), 12(10) (unauthorised entry) and 13(11) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(12) (tenants at will etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article 5(7)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over the whole or part of a house, building or factory.

(7) Section 11 was amended by section 34(1) of, and paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

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

(9) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(10) Section 12 was amended by paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.

(11) Section 13 was amended by section 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals Courts and Enforcement Act 2007 (c. 15).

(12) Section 20 was amended by paragraph 4 of Schedule 15 of, the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(2) But see article 8(3) (power to acquire subsoil or airspace only) of the Network Rail (London to Corby) (Land Acquisition) Order 2020, which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the authority must decide whether to—
 - (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right to be acquired, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

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13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 5

Article 10

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised works</i>
County of Northamptonshire District of Wellingborough	603, 604, 607, 611, 614, 615, 617 to 619, 622, 632 to 634	Worksite	Reconstruction of bridge 83

SCHEDULE 6

Article 17

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

1.—(1) Sections 271 to 274(13) (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) of the 1990 Act apply in relation to any land acquired or appropriated by Network Rail under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282(14), which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(13) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the 2003 Act.

(14) Section 279(3) was amended by paragraph 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the 2003 Act. Sections 280 and 282 were amended by S.I. 2009/1307.

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(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus in respect of which Part 3 of the 1991 Act applies.

(6) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) (interpretation of chapter 1) of the 2003 Act; and

“public utility undertakers” has the same meaning as in the 1980 Act⁽¹⁵⁾.

(15) The definition of “public utility undertakers” was amended by section 190(3) of, and part 1 of Schedule 27 to, the Water Act 1989 (c. 15) and section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29).