
STATUTORY INSTRUMENTS

2022 No. 651

The Network Rail (Essex and Others
Level Crossing Reduction) Order 2022

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Application of Part 1 of the 1965 Act

18.—(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 any interests in 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 has effect with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)⁽²⁾ (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 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

(5) In section 11(1B)⁽³⁾ (power of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) 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.”.

(7) 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 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

(8) In Schedule 2A⁽⁵⁾ (counter-notice requiring purchase of land not in notice to treat)—

(1) 1981 c. 67.

(2) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(3) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

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

(5) Schedule 2A was inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016.

- (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 articles 21 (temporary use of land for construction works) and 22 (temporary use of land for maintenance of works) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

Application of the 1981 Act

- 19.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied by paragraph (1), has effect with the following modifications.
- (3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (4) Omit section 5A(6) (time limit for general vesting declaration).
- (5) In section 5B(7) (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 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022”.
- (6) In section 6(8) (notices after execution of declaration), in subsection (1)(b), 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(9) (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(10) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 18 (application of Part 1 of the 1965 Act).

Power to acquire new rights

20.—(1) Network Rail may acquire compulsorily such rights of access or other easements specified in column (2) of Schedule 3 (land in which private rights of access may be acquired) to the extent specified in column (1) of that Schedule as may be required for the benefit of the land specified in column (2) of that Schedule by creating them as well as by acquiring rights of access or other easements already in existence.

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

(2) Network Rail may acquire compulsorily such easements or other rights over the land specified in column (2) of Schedule 5 (land in which only new rights etc., may be acquired) as may be required for the purposes specified in column (3) of that Schedule, by creating them as well as by acquiring easements or other rights already in existence.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 12 (modification of compensation and compulsory purchasing enactments for creation of new rights) where Network Rail acquires a right over land under paragraphs (1) or (2), Network Rail is not required to acquire a greater interest in that land.

(4) Schedule 12 has 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.