



# Highways Act 1980

## 1980 CHAPTER 66

### PART XII

#### ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

##### *Acquisition of land generally*

#### **239 Acquisition of land for construction, improvement etc. of highway: general powers.**

- (1) Subject to section 249 below, the Minister may acquire land required for the construction of a trunk road, and any highway authority may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.
- (2) Subject to section 249 below, the Minister may acquire land which in his opinion is required—
  - (a) for the carrying out of any works authorised by an order relating to a trunk road under section 14 above, or
  - (b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road other than a special road.
- (3) Subject to section 249 below, a highway authority may acquire land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.
- (4) Subject to section 249 below, a special road authority may acquire land which in the opinion of the authority is required—
  - (a) for the improvement of a highway which is included in the route of the special road but has not been transferred to the authority by means of an order under section 18 above,
  - (b) for the purposes of any order made in relation to the special road under section 18 above, or

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- (c) for the provision of service stations or other buildings or facilities to be used in connection with the construction of the special road or with the use or maintenance of it.
- (5) Where a highway authority have acquired, or propose to acquire, in exercise of any of the powers conferred by subsections (1) to (4) above, land forming part of a common, open space, or fuel or field garden allotment, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land under the subsection in question as if it were land required for the construction or improvement of a highway, and nothing in section 249 below applies to an acquisition by virtue of this subsection.
- (6) A highway authority may acquire land required for the improvement or development of frontages to a highway for which they are the highway authority or of the land adjoining or adjacent to that highway.

**Modifications etc. (not altering text)**

- C1 S. 239(3)(4)(c) applied (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\), s. 32\(2\)](#)
- C2 S. 239(4)(c) extended (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\), s. 16\(3\)](#)(with ss. 25(2), 167(2)); [S.I. 1991/2288, art. 3, Sch.](#)

**240 Acquisition of land in connection with construction, improvement etc. of highway: further general powers.**

- (1) Subject to section 249 below, a highway authority may acquire land which is required for, or for use by them in connection with, the carrying out of works authorised by section 129 above, or by an order relating to a classified road under section 14 above.
- (2) Without prejudice to any other power conferred by this Act—
  - (a) a highway authority may acquire land which is required for use by them in connection with the construction or improvement of a highway, or with the carrying out of works authorised by an order relating to a trunk road under section 14 above or an order under section 18 or section 108(1) above; and
  - (b) any power of a highway authority under subsection (1) above or under any provision of this Part of this Act not contained in this section to acquire land for a purpose whose achievement involves the diversion of a navigable watercourse or the carrying out of works under section 110 above includes power to acquire land which is required for carrying out the diversion or, as the case may be, the works.
- (3) Subject to section 249 below, the Minister may acquire land which is required for the purpose of—
  - (a) providing a trunk road picnic area; or
  - (b) providing public sanitary conveniences in the exercise of his powers under section 112(5) above.
- (4) A local highway authority may acquire land which is required for the purpose of providing public sanitary conveniences in the exercise of their powers under section 114 above.

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- (5) Subject to section 249 below, a highway authority may acquire land which is required for the purpose of providing a lorry area in the exercise of their powers under section 115 above.
- (6) Where, in exercise of any of the powers conferred by subsections (1) to (5) above, a highway authority have acquired, or propose to acquire, for any purpose land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.

#### **241 Acquisition of land between improvement line and boundary of street.**

- (1) Where a highway authority have prescribed an improvement line in relation to any street under section 73 above they may acquire any land, not occupied by buildings, lying between the improvement line and the boundary of the street.
- (2) Any land acquired under this section shall, at such time or times as the highway authority may determine, be added to and made good as part of the street by the authority, and until it is so added the occupier of the land from which it is severed, and other persons with his permission, are entitled to reasonable access across the land so acquired to and from the street, and have the same rights in regard to the laying, altering, maintaining and removal of [<sup>F1</sup>sewers,] drains, mains, pipes or electric lines in that land as if it were already part of the street.
- (3) Subsection (11) of section 73 above has effect in relation to this section as it has effect in relation to that section.

#### **Textual Amendments**

- F1** Word inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### **242 Acquisition of land for execution of works in connection with certain bridges.**

- (1) A highway authority may, subject to subsection (3) below, acquire land which they require to enable them to comply with a requirement or direction contained in an order made under section 93 above.
- (2) The Minister may, subject to subsection (3) below, authorise the owners of a bridge to acquire land which they require to enable them to comply with a requirement or direction contained in an order made under section 93 above.
- (3) Nothing in this section authorises the compulsory acquisition of land which is the property of a council, or which has been acquired by transport undertakers for the purposes of their undertaking, but—
  - (a) a highway authority may acquire compulsorily a right upon, under or over such land for the purpose of executing any works which they are required or authorised by an order made under section 93 to execute or construct; and
  - (b) the Minister may authorise the owners of a bridge to acquire compulsorily a right upon, under or over such land for that purpose.

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**243 Acquisition of land for cattle-grids etc.**

A highway authority may acquire land which they require for the purpose of providing, altering or improving a cattle-grid or by-pass in the exercise of powers conferred on them by this Act.

**244 Acquisition of land for road-ferries.**

A highway authority may acquire land which they require for the purpose of providing or improving a road-ferry in the exercise of powers conferred on them by this Act.

**245 Acquisition of land for buildings etc. needed for discharge of functions of highway authority.**

Without prejudice to section 239(4) above, a local highway authority may acquire land, whether situated within or without their area, which in their opinion is required for the provision of any buildings or facilities needed for the purposes of their functions as a highway authority.

**[<sup>F2</sup>245A Acquisition of land by Secretary of State or Assembly for buildings etc. needed for traffic management purposes**

- (1) The Secretary of State may acquire land which in his opinion is required for the provision of any buildings or facilities which are needed—
  - (a) for use by, or in connection with the activities of, traffic officers in England; or
  - (b) for other purposes connected with the management of traffic on highways in England for which he is the highway authority.
- (2) The National Assembly for Wales may acquire land which in its opinion is required for the provision of any buildings or facilities which are needed—
  - (a) for use by, or in connection with the activities of, traffic officers in Wales; or
  - (b) for other purposes connected with the management of traffic on highways in Wales for which it is the highway authority.]

**Textual Amendments**

**F2** S. 245A inserted (4.10.2004 for E. for specified purposes, 1.5.2009 for W. for specified purposes and otherwise prosp.) by [Traffic Management Act 2004 \(c. 18\)](#), **ss. 13, 99** (with s. 38); S.I. 2004/2380, **art. 2(b)**; S.I. 2009/1095, **art. 2**

**246 Acquisition of land for mitigating adverse effects of constructing or improving highway.**

- (1) Subject to subsection (3) below, a highway authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway.
- (2) Subject to subsection (3) below, a highway authority may acquire by agreement (but not compulsorily)—

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- (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a highway;
  - (b) land the enjoyment of which is seriously affected by the use of a highway which the authority have constructed or improved,  
[<sup>F3</sup>if the interest of the vendor is a qualifying interest].
- [<sup>F4</sup>(2A) Where the highway authority propose to carry out works on blighted land for the construction or improvement of a highway, they may acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the highway if the interest of the vendor is a qualifying interest.
- (2B) In this section—
- “qualifying interest” has the meaning given in section 149(2) of the Town and Country Planning Act 1990, taking references to the relevant date as references to the date on which the purchase agreement is made, and
  - “blighted land” has the meaning given in section 149(1) of that Act.]
- (3) The powers conferred by subsection (1) above to acquire land compulsorily and the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the date on which the highway or, as the case may be, the improved highway is first opened to public traffic (“the opening date”); and the powers conferred by subsection (1) above to acquire land by agreement and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the opening date.
  - (4) For the purposes of subsection (3) above the acquisition of any land is begun—
    - (a) if it is compulsory, on the date on which the notice required by [<sup>F5</sup>section 11 of the Acquisition of Land Act 1981] is first published;
    - (b) if it is by agreement, on the date on which the agreement is made;and where the compulsory acquisition of any land under subsection (1) above is begun within the time limited by subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under subsection (1) is to be treated for the purposes of this section as begun within that time.
  - (5) Where under the powers of this section a highway authority have acquired, or propose to acquire, land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.
  - (6) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section the land is to be treated as if it were being acquired for the construction of the highway or, as the case may be the improvement in question.
  - (7) In this section references to the construction or improvement of a highway include references to the construction or improvement of a highway by virtue of an order under section 14 or 18 above.

#### Textual Amendments

- F3** Words in s. 246(2) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 70, Sch. 15 para.26; S.I. 1991/2067](#), art. 3.
- F4** [S. 246\(2A\)\(2B\)](#) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 62\(2\); S.I. 1991/2067, art. 3.](#)

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**F5** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(3\)](#)

## 247 General provision as to acquisition procedure etc.

- (1) Any power to acquire land compulsorily conferred by any of the foregoing provisions of this Part of this Act on a local highway authority is exercisable in any particular case on their being authorised to do so by the Minister.
- [<sup>F6</sup>(2) The Acquisition of Land Act 1981 shall, subject to sub-section (5) below, apply to the compulsory acquisition of land under any of the foregoing provisions of this Part of this Act.]
- (5) Notwithstanding anything in [<sup>F7</sup>Part III of the Acquisition of Land Act 1981] an order authorising the owners of a bridge to acquire a right compulsorily pursuant to section 242(3) above is not subject to special parliamentary procedure by reason only of its authorising the acquisition of any such right, nor does anything in the said Part III prevent the acquisition of any right pursuant to section 242(3) above (whether by the owners of a bridge or by a highway authority).
- (6) Where under this Part of this Act a highway authority are authorised to acquire land by agreement, the provisions of Part I of the Act of 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31, apply, and in the said Part I as so applied the word “land” has the meaning provided by section 329 below.

### Textual Amendments

- F6** S. 247(2) substituted for s. 247(2)–(4) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(4\)](#)
- F7** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(5\)](#)

## 248 Acquisition in advance of requirements.

- (1) Any power of the Minister under any of the foregoing provisions of this Part of this Act, other than sections 240 and 246 to acquire by agreement land required for a purpose mentioned in the provision in question is exercisable in respect of any land which, in the opinion of the Minister, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.
- (2) Subject to the following provisions of this section, where under any provision of this Act specified in column 1 of Schedule 17 to this Act a highway authority have power to acquire, or have acquired, land (“the initial stage area”) for a purpose specified in column 2 of that Schedule, then any power of the authority under this Act to acquire land compulsorily for a purpose specified in column 3 is, in the case of other land adjacent to the initial stage area (“the subsequent stage area”), exercisable by them notwithstanding that the other land is not immediately required for the purpose specified in column 3.
- (3) A highway authority shall not acquire land compulsorily by virtue of subsection (2) above unless one or more of the following conditions are satisfied, namely—
  - (a) the authority intend, when they have acquired the subsequent stage area, forthwith to incorporate it within the boundaries of the highway or proposed highway or, as the case may be, of the service area, maintenance compound,

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- trunk road picnic area or lorry area, for the purposes of which the initial stage area is to be, or has been, acquired;
  - (b) the authority's proposed use of the initial stage area involves the carrying out of works wholly or partly on, or under or over, the subsequent stage area;
  - (c) plans for the use of the subsequent stage area (for the purpose for which the authority have power by virtue of this section to acquire it) have been made or approved by the Minister.
- (4) A highway authority shall not by virtue of subsection (2) above acquire land compulsorily for any purpose where, apart from this section, they would not have power to acquire it compulsorily if it were required immediately for that purpose.

**249 Distance limits from highway applicable to compulsory acquisition.**

- (1) Subject to subsection (3) below, a highway authority shall not in the exercise of a power to acquire land under any of the provisions of this Act specified in column 1 of Part I of Schedule 18 to this Act require compulsorily land lying beyond the limit specified in relation to that power in column 2 of that Schedule.
- (2) Part II of Schedule 18 has effect with respect to limits specified in Part I of that Schedule.
- (3) Nothing in this section applies to land required for purposes connected with the drainage of a highway or proposed highway, or of a maintenance compound, service area, trunk road picnic area or lorry area, or required for the purpose—
  - (a) of the diversion of a navigable watercourse,
  - (b) of the carrying out of works authorised by section 110 above, or
  - (c) of providing protection for a highway or proposed highway against snow, flood, landslide or other hazards of nature.

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