



Acquisition of Land Act 1981

1981 CHAPTER 67

PART VI

FOOTPATHS AND BRIDLEWAYS

32 Power to extinguish certain public rights of way.

- (1) This section applies where land is acquired, or proposed to be acquired—
 - (a) in pursuance of a compulsory purchase order, or
 - (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by a compulsory purchase order, and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic.
- (2) If the acquiring authority is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, the acquiring authority may by order extinguish the right of way; and Schedule 6 to the ^{M1}Highways Act 1980 shall have effect as to the making, confirmation, validity and date of operation of any such order.
- (3) If the acquiring authority is not the Secretary of State—
 - (a) the order under subsection (2) above shall not take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed order, by the acquiring authority under paragraph 2(1)(b) of Schedule 6 to the ^{M2}Highways Act 1980 as applied by this section, and
 - (b) the Secretary of State shall not confirm the order unless satisfied that this section applies, and that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required.
- (4) The time specified in the order under subsection (2) above as the time from which the right of way is extinguished shall not be earlier than—
 - (a) confirmation of the order, or if the Secretary of State is the acquiring authority, the making of the order;

Status: Point in time view as at 29/12/2003.

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- (b) if in the exercise of the power conferred by section 11(1) of the ^{M3}Compulsory Purchase Act 1965, or by agreement, the acquiring authority takes possession of the land, the date on which the authority takes possession of the land;
 - (c) if the acquiring authority does not take possession of the land in exercise of any such power, the date on which the acquisition of the land is completed.
- (5) Where a right of way is extinguished under this section at a date before the acquisition of the land is completed, then if at any time thereafter it appears to the acquiring authority that the proposal to acquire the land has been abandoned, the acquiring authority shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right.
- (6) No order shall be made under subsection (2) above as respects a right of way over land on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and—
- (a) the consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require, and
 - (b) the consent shall not be unreasonably refused.

Any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister.

- [^{F1}(6A) In subsection (6) above the reference to apparatus belonging to statutory undertakers shall include a reference to [^{F2}electronic communications apparatus kept installed for the purposes of an electronic communications code network] and in relation to any such apparatus—
- (a) the references to the undertakers shall have effect as references to the operator of the [^{F3}network] in question; and
 - (b) the reference to the appropriate Minister shall have effect as a reference to the Secretary of State.]
- (7) This section shall not apply where [^{F4}section 251 or 258 of the Town and Country Planning Act 1990] (extinction of public rights of way over land held for planning purposes) applies.
- (8) This section applies subject to any provision to the contrary in any other Act and subject in particular to the exclusion of this Part of this Act by—
[^{F5}[^{F6}section 41 or 42 or 42A] of the Civil Aviation Act 1982],
...
^{F7}
- (9) Except as provided in this section nothing in this Act shall be taken to authorise the extinction of any public right of way.

Textual Amendments

- F1** S. 32(6A) inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), Sch. 4 para. 80(2), **Sch. 5 para. 45**
- F2** Words in s. 32(6A) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 58(3)(a)** (with Sch. 18); [S.I. 2003/1900](#), arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)
- F3** Word in s. 32(6A)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 58(3)(b)** (with Sch. 18);

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S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

- F4** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 53(3)**
- F5** Words substituted by Civil Aviation Act 1982 (c. 16, SIF 9), **Sch. 15 para. 27**
- F6** Words in s. 32(8) substituted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 5(b)**
- F7** Entry repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**

Modifications etc. (not altering text)

- C1** S. 32 applied by S.I. 1986/564, **art. 4(2)(b)**

Marginal Citations

- M1** 1980 c. 66.
M2 1980 c. 66.
M3 1965 c. 56.

33 Land acquired before commencement of this Act.

- (1) In section 32 above “compulsory purchase order” includes—
- (a) a compulsory purchase order under the ^{M4}Acquisition of Land (Authorisation Procedure) Act 1946, and
 - (b) an authorisation under section 2 of that Act (which was repealed by the ^{M5}Statute Law Revision Act 1953).
- (2) Section 32 above shall apply in relation to land acquired before the commencement of the said Act of 1946 by a local authority, being—
- (a) land acquired compulsorily under any public general Act in force immediately before the commencement of the said Act of 1946 other than—
 - (i) the ^{M6}Light Railways Acts 1896 and ^{M7}1912,
 - (ii) Part III of the ^{M8}Housing Act 1936,
 - (iii) the ^{M9}Town and Country Planning Act 1944, or
 - (b) land acquired by agreement for a purpose such that the land could have been so acquired compulsorily.

Marginal Citations

- M4** 1946 c. 49.
M5 1953 (2 & 3 Eliz. 2) c. 5.
M6 1896 c. 48.
M7 1912 c. 19.
M8 1936 c. 51.
M9 1944 c. 47.

Status:

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