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STATUTORY INSTRUMENTS

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**1991 No. 1760**

**The River Colne Barrier (Wivenhoe) Order 1991**

**Power to acquire easements only**

- (a) 5. (1) (a) The Rivers Authority may, instead of acquiring any land which they are authorised to acquire compulsorily under this Order, acquire compulsorily such easements and rights in, to, over or under the land as they may require for the purposes of or in connection with the exercise of any of their powers under this Order.
- (b) The power conferred by this paragraph to acquire compulsorily easements and rights shall include a power to acquire compulsorily such easement or right by way of the creation of a new easement or right.
- (2) Accordingly the Rivers Authority may give notice to treat in respect of any such easement or right describing the nature thereof; and the provisions of Part I of the Act of 1965 as applied for the purposes of this Order shall apply in relation to the acquisition of such easements and rights as if they were land within the meaning of the Act of 1965.
- (3) Where the Rivers Authority have acquired an easement or right only in, to, over or under any land under this Article—
- (a) they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this Article had not been enacted.
- (4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this Article requires the Rivers Authority to acquire the land, the Rivers Authority shall not be entitled under this Article to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Rivers Authority may acquire the land compulsorily notwithstanding that the period mentioned in section 4 of the Act of 1965 has expired, but not later than one year after the determination of the tribunal:
- Provided that nothing in this paragraph shall apply to land forming part of a street.
- (5) A notice to treat given under this Article shall be endorsed with notice of the effect of paragraph (4) of this Article.