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STATUTORY INSTRUMENTS

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**2008 No. 3163**

**The Network Rail (Thameslink) (Land Acquisition) Order 2008**

**PART 2**

**ACQUISITION OF LAND**

**Rights under or over streets**

**8.**—(1) Network Rail may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the land referred to in article 3 (power to acquire land) as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without Network Rail being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without Network Rail acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Paragraph (2) shall not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(5) Compensation shall not be payable under paragraph (3) to any person who is an undertaker to whom section 85 of the New Roads and Street Works Act 1991(1) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.