
STATUTORY INSTRUMENTS

2015 No. 1317

The White Moss Landfill Order 2015

PART 4

POWERS OF ACQUISITION

Compulsory acquisition of land

12.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project, or to facilitate or which is incidental to it, including the land set out in Part 1 to the book of reference.

(2) From the date on which a compulsory acquisition notice under section 134(3) of the 2008 Act is served, or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) is discharged from all rights, trusts and incidents to which it was previously subject.

(3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Compulsory acquisition of land – incorporation of the mineral code

13. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 (1) (minerals) are incorporated in this Order subject to the modifications that—

- (1) paragraph 8(3) of Schedule 3 is not incorporated; and
- (2) for “the acquiring authority” substitute “the undertaker”.

Time limit for exercise of authority to acquire land compulsorily

14. After the end of the period of 5 years beginning on the day on which this Order is made—

- (1) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (2) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 15 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(2).

(1) [1981 c.67](#). Sub-paragraph (5) of paragraph 1 of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act [1994 \(c.21\)](#) and paragraph 8 of Part 3 of Schedule was amended by section 46 of the Criminal Justice Act [1982 \(c.48\)](#). There are other amendments to the 1981 Act which are not relevant to this Order.

(2) [1981 c.66](#). Sections 2 and 116 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act [1990 \(c.11\)](#). There are other amendments to the 1981 Act which are not relevant to this Order.

Compulsory acquisition of rights

15.—(1) The undertaker may acquire compulsorily the existing rights described in Part 3 of the book of reference, and create and acquire compulsorily the new rights described in Part 1 of the book of reference.

(2) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Private rights of way

16.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

(a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plan, is required for the purposes of this Order are to be extinguished on the appropriation of the land by the undertaker for any of those purposes.

(3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) This article does not apply in relation to any right of way to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) applies.

(5) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land,

(ii) the undertaker's appropriation of it, or

(iii) the undertaker's entry onto it,

that any or all of those paragraphs are not to apply to any right of way specified in the notice; and

(b) any agreement made at any time between the undertaker and the person in or to whom the right of way in question is vested or belongs.

(6) If any such agreement as is referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right of way is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is to be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

17.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(3) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, is to have effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is to be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there is to be substituted “(1)” and after “given” there is to be inserted “and published”.

(5) In that section, for subsections (5) and (6) there is to be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is to be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are to be omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

(3) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.