
STATUTORY INSTRUMENTS

2017 No. 1329

The Boston Barrier Order 2017

PART 4

ACQUISITION AND POSSESSION OF LAND

Supplementary

Extinction or suspension of private rights of way etc. over land

42.—(1) Subject to paragraph (6), 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 Agency, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Agency under section 11(1) (powers of entry)⁽¹⁾ of the 1965 Act,

whichever is sooner.

(2) Subject to paragraph (6), all private rights of way over land owned by the Agency which, being within the Order limits, is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by the Agency.

(3) Subject to paragraph (6), all private rights of way over land of which the Agency takes temporary possession under this Order are suspended and unenforceable for as long as the Agency remains in lawful possession of the land.

(4) 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.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.)⁽²⁾ applies.

(6) Paragraphs (1), (2) and (3) have effect subject to—

- (a) any notice given by the Agency before—
 - (i) the completion of the acquisition of;
 - (ii) the Agency's appropriation of;
 - (iii) the Agency's entry onto; or
 - (iv) the Agency's taking temporary possession of,

(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(2) Section 272 was amended by paragraphs 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

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

- (b) any agreement which makes reference to this article made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) between the Agency and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is mentioned in sub-paragraph (6)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Time limit for exercise of powers of acquisition

43.—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 32 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 33 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 38 (temporary possession of land for construction purposes) cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the Agency remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.