
STATUTORY INSTRUMENTS

2022 No. 1067

The Network Rail (Huddersfield to Westtown
(Dewsbury) Improvements) Order 2022

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Supplementary

Extinction or suspension of private rights of way

39.—(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 Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1)(1) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to the provisions of this article in respect of land owned by Network Rail and required for the purposes of this Order all private rights of way are extinguished on the appropriation of the land for any of those purposes by Network Rail.

(3) Subject to the provisions of this article, all private rights of way over land subject to the compulsory acquisition of rights or the imposition of restrictive or other covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive or other covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive or other covenant by Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1) of the 1965 Act in pursuance of the right or enforcement of the restrictive or other covenant,

whichever is the sooner.

(4) Subject to the provisions of this article all private rights of way over land of which Network Rail takes temporary possession under this Order are suspended and unenforceable for as long as Network Rail remains in lawful possession of the land.

(5) Subject to paragraph (7), 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, as if it were a dispute under Part 1 of the 1961 Act.

(1) Paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measures 2006 (No. 1), sections 186(2) of the Housing and Planning Act 2016 (c. 22).

(6) This article does not apply in relation to any right of way to which section 271 (extinguishment of rights of statutory undertakers) or 272 (extinguishment of rights of electronic communications code network operators) of the 1990 Act⁽²⁾ or paragraph 2 of Schedule 18 (provisions relating to statutory undertakers etc.) applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

- (a) any notice given by Network Rail before the completion of the acquisition of the land, Network Rail's appropriation of it, Network Rail's entry onto it or Network Rail taking temporary possession of it that any or all of those paragraphs do not apply to any right of way specified in the notice; and
- (b) any agreement 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) which makes reference to this article between Network Rail and the person in or to whom the right of way in question is vested or belongs.

(8) If any such agreement as is mentioned in sub-paragraph (7)(b) which 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, is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

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