
STATUTORY INSTRUMENTS

2023 No. 834

**The A303 (Amesbury to Berwick Down)
Development Consent Order 2023**

PART 3

POWERS OF ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Acquisition of subsoil, etc., only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights over, the subsoil of and airspace over the land referred to in paragraph (1) of article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) In the case of the Order land specified in columns (1) and (2) of Schedule 6 (land in which only subsoil or new rights in and above subsoil and surface may be acquired) the undertaker's powers of compulsory acquisition under article 19 are limited to—

- (a) the acquisition of such subsoil; and
- (b) the acquisition of such easements or other new rights and the imposition of restrictive covenants in the remaining subsoil and over the surface of the land,

as the undertaker may require for or in connection with the authorised development.

(3) Where the undertaker acquires any part of, or rights over, the subsoil or surface of or airspace over land referred to in paragraphs (1) or (2), the undertaker is not required to acquire an interest in any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(1) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(5) Paragraphs (3) and (4) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

(6) References in paragraph (2)(a) to subsoil are references to the subsoil lying at and below the depths specified in column (3) of Schedule 6 beneath the level of the surface of the land, and references to the remaining subsoil in paragraph (2)(b) are references to the part of the subsoil lying

(1) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.

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above the shallowest part of the subsoil acquired under paragraph (2)(a) but below the level of the surface of the land.

(7) For the purposes of paragraph (6) “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the ground covered by water; or
- (c) in any other case, ground surface level,

at the time of this Order coming into force.