STATUTORY INSTRUMENTS

2018 No.XXXX

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

The Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order

Made - - - - ***

Coming into force - - ***

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An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(**a**) for an Order under sections 1 and 5 of the Transport and Works Act 1992(**b**) ("the 1992 Act").

[Objections to that application have been withdrawn.]

[The Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act.]

[The Secretary of State, having considered [the objections made and not withdrawn] [and the report of the person who held the inquiry], has determined to make an Order giving effect to the [proposals comprised in the application [without modifications] [with modifications which in the opinion of the Secretary of State do not make any substantial change in the proposals]] [proposals concerned with modifications which in the opinion of the Secretary of State make a substantial change in the proposals].

[The Secretary of State having considered representations duly made under section 13 of the 1992 Act, has determined to make the Order applied for with modifications.]

Notice of the Secretary of State's determination was published in the London Gazette on [X] 201[X].

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 2 to 4, 7, 8, 10, 11 and 16 of Schedule 1 to, the 1992 Act makes the following Order:—

(**a**) S.I. 2006/1466, as amended by S.I. 2010/439, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590 and S.I. 2013/755.
(**b**) 1992 c. 42. Section 1 was amended by paragraphs 51 and 52 of Schedule 2 to the Planning Act 2008 (c. 29). Section 5 was amended by S.I. 2012/1659.

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X] and comes into force on [●] 201[X].

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**a**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**b**);

"the 1980 Act" means the Highways Act 1980(**c**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**d**);

"the 1990 Act" means the Town and Country Planning Act 1990(**e**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**f**);

"the 2003 Act" means the Communications Act 2003(**g**);

"address" includes any number or address used for the purposes of electronic transmission;

"authorised works" means—

(a) the Order works and;

(b) the other works or any part of the works for the alteration and improvement of the Midland Mainline railway between London and Corby comprising, in relation to each of the land parcels listed in column 1 of the table in that Schedule described in Schedule 1 (authorised works), the works described in column 2 of that table authorised by the statutes specified in column 3 of that table;

"the book of reference" means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

"building" includes any structure or erection or any part of a building, structure or erection;

"deposited plans" means the plans comprising sheets 1, 2, 5, 6, 8 and 9 certified by the Secretary of State as the deposited plans for the purposes of this Order;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

~~"the existing footpath" means public footpath number 2 Knotting and Souldrop and shown between points A and B on sheet 4 of the deposited plans;~~

~~"footpath" has the same meaning as in the 1980 Act;~~

(**a**) 1961 c. 33.
(**b**) 1965 c. 56.
(**c**) 1980 c. 66.
(**d**) 1981 c. 66
(**e**) 1990 c. 8.
(**f**) 1991 c. 22.
(**g**) 2003 c. 21.

"highway" and "highway authority" have the same meaning as in the 1980 Act;

"limits of deviation" means the limits of deviation for the work shown on sheet 1 of the deposited plans;

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace, and "maintenance" is to be construed accordingly;

~~"the new public right of way" means the new public footpath shown between points A and C on sheet 4 of the deposited plans;~~

"Network Rail" means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

"Order land" means the land shown on the deposited plans which is within the limits of land to be acquired or used and described in the book of reference;

"Order limits" means the limits of land to be acquired or used or the limits of deviation shown on the deposited plans;

"the Order works" means the works authorised by article 4 (power to construct and maintain works);

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**a**);

"statutory undertaker" means—

(a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and

(b) any public communications provider within the meaning of section 151(1) of the 2003 Act;

"street" includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

~~"the Souldrop level crossing" means the crossing of the Midland Mainline railway, grid reference E:498273, N:261198, on the level at Souldrop in the County of Bedfordshire which has the status of a public footpath;~~

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

"the work" means the work specified in paragraph 1 of article 4 (power to construct and maintain works).

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface.

(3) References in this Order to numbered plots are references to plot numbers on the deposited plans.

(4) All distances, directions and lengths referred to in this Order are approximate.

(5) References in this Order to points identified by letters with or without numbers, are construed as references to points so lettered on the deposited plans.

Application of the 1991 Act

3.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

(**a**) 1981 c. 67.

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(**a**) (dual carriageways and roundabouts) of the 1980 Act.

(2) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

section 56 (directions as to timing);

section 56A (power to give directions as to placing of apparatus);

section 58 (restrictions following substantial road works);

section 73A (power to require undertaker to re-surface street);

section 73B (power to specify timing, etc., of re-surfacing);

section 73C (materials, workmanship and standard of re-surfacing);

section 78A (contributions to costs of re-surfacing by undertaker); and

Schedule 3A (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made or code of practice issued or approved under those provisions apply (with the necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 8 (temporary stopping up of streets) and the carrying out of works under article 9 (power to execute street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act (**b**) referred to in paragraph (3) are—

section 54(**c**) (advance notice of certain works), subject to paragraph (5);

section 55(**d**) (notice of starting date of works), subject to paragraph (5);

section 57(**e**) (notice of emergency works);

section 59(**f**) (general duty of street authority to co-ordinate works);

section 60 (general duty of undertakers to co-operate);

section 68 (facilities to be afforded to street authority);

section 69 (works likely to affect other apparatus in the street);

section 76 (liability for cost of temporary traffic regulation);

section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(5) Section 54 and 55 of the 1991 Act as applied by paragraph (3) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(**a**) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
(**b**) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
(**c**) As amended by section 49(1) of the Traffic Management Act 2004.
(**d**) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.
(**e**) As also amended by section 52(3) of the Traffic Management Act 2004.
(**f**) As amended by section 42 of the Traffic Management Act 2004 (c.18)

(6) Nothing in article 7 (construction and maintenance of highways)—

(a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act; and Network Rail is not, by reason of any duty under that article to maintain a street, to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or

(b) has effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.

PART 2

WORKS PROVISIONS

Power to construct and maintain works

4.—(1) Network Rail may construct and maintain a work in the Borough of Bedford, comprising the reconstruction of the bridge carrying Bromham Road over the Midland Mainline railway.

(2) Subject to article 5 (power to deviate), the work may only be constructed in the lines or situations shown on the deposited plan and in accordance with the levels shown on the section.

(3) Network Rail may carry out and maintain within the Order limits such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the work, namely—

(a) the raising and reconstruction of Bromham Road;

(b) electrical equipment and signalling works;

(c) ramps, embankments, means of access and footpaths;

(d) works to install or alter the position of apparatus, including mains, sewers, drains and cables; and

(e) such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the work, other than works that would interfere with a navigable watercourse.

Power to deviate

5. In constructing or maintaining the work, Network Rail may—

(a) deviate laterally from the lines or situations shown on sheet 1 of the deposited plans to the extent of the limits of deviation for the work; and

(b) deviate vertically from the levels shown on the section—

(i) to any extent not exceeding 3 metres upwards; or

(ii) to any extent downwards as may be found to be necessary or convenient.

Supplemental powers

Discharge of water

6.—(1) Network Rail may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the Order works and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by Network Rail under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**a**).

(3) Network Rail must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) Network Rail must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Network Rail must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) Network Rail must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016.

(8) If a person who receives an application for consent or approval fails to notify Network Rail of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

(9) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**b**) have the same meaning as in that Act.

PART 3

STREETS

~~**Closure of Souldrop level crossing**~~

~~**7.** (1) Subject to paragraph (3) the Souldrop level crossing and the existing footpath are stopped up and discontinued.~~

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~~(2) Subject to paragraph (3), upon the stopping up and discontinuance of the Souldrop level crossing and the existing footpath any right of way over Souldrop level crossing is extinguished and any public right of way over the existing footpath is extinguished.~~

~~(3) Paragraphs (1) and (2) are not to have effect until the new public right of way has been completed to the reasonable satisfaction of the highway authority in accordance with article 9 (construction and maintenance of highways) and is open for use.~~

(**a**) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(**b**) 1991 c.57.

~~(4) Any person who suffers loss by the extinguishment of any private right of way over the Souldrop level crossing under this article is entitled to compensation to be determined, and in case of dispute, under Part 1 of the 1961 Act.~~

~~(5) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.~~

~~**Creation of new public right of way**~~

~~**8.** (1) The new public right of way authorised under article 8 is to have the status of a footpath and, subject to paragraphs (2) to (5), in relation to the new public right of way section 28 of the 1980 Act (compensation for loss caused by public path creation order) applies as if that new public right of way had been created by a public path creation order.~~

~~(2) In its application by virtue of paragraph (1) section 28 of the 1980 Act has effect with the modifications mentioned in paragraphs (3) to (5).~~

~~(3) In subsection (1), for the words "the authority by whom the order was made" there are substituted the words "Network Rail Infrastructure Limited".~~

~~(4) For subsection (2), there is substituted —~~

~~"(2) A claim for compensation under this section is to be made to Network Rail Infrastructure Limited in writing within 6 months beginning from the date that the new public right of way is open to use and is to be served on Network Rail Infrastructure Limited by delivering it at, or by sending it by pre-paid post to, the registered office of Network Rail Infrastructure Limited."~~

~~(5) Subsection (3) is omitted.~~

~~(6) For the purposes of paragraphs (1) to (5), section 307 of the 1980 Act (disputes as to compensation which are to be determined by Upper Tribunal and related provisions), in its application to section 28 of the 1980 Act by virtue of section 307(1), has effect as if in subsection (2) for the words "the authority from whom the compensation in question is claimed", there were substituted the words "Network Rail Infrastructure Limited".~~

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Construction and maintenance of highways

~~9.~~7.—(1) The ~~new public right of way authorised under article 8 (creation of a new public right of way), and the~~ reconstruction of Bromham Road authorised by article 4 (power to construct and maintain works) are to be completed to the reasonable satisfaction of the highway authority and are to be maintained by and at the expense of Network Rail for a period of 12 months from their completion and after the expiry of that period by and at the expense of the highway authority.

(2) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain a highway under this article it is a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that Network Rail had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous to traffic.

(3) For the purposes of a defence under paragraph (2), the court must in particular have regard to the following matters—

(a) the character of the highway and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a highway of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the highway;

(d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the new public right of way;

(e) where Network Rail could not reasonably have been expected to repair that part of the highway before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that Network Rail had arranged for a competent person to carry out or supervise the maintenance of the part of the highway to which the action relates unless it is also proved that Network Rail had given the competent person proper instructions with regard to the maintenance of the highway and that the competent person had carried out those instructions.

(4) The highway is to be treated as completed to the satisfaction of the highway authority if the highway authority fails to reply to a request for certification that it is satisfied with the work within 28 days of receiving the request.

(5) In this article "reconstruction of Bromham Road" includes the reconstruction of the Bromham Road bridge and any embankments supporting that bridge.

Temporary stopping up of streets

~~10.~~8.—(1) Network Rail, during and for the purposes of the execution of the Order works, may temporarily stop up, alter or divert Bromham Road and Spenser Road in the Borough of Bedford within the Order limits and may for any reasonable time—

(a) divert the traffic from those streets; and

(b) subject to paragraph (3), prevent all persons from passing along those streets.

(2) Without limitation on the scope of paragraph (1), Network Rail may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) Network Rail must provide reasonable access for pedestrians going to or from premises abutting on a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Network Rail must not exercise the powers conferred by this article without first consulting the street authority.

(5) Any person who suffers loss by the 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.

Power to execute street works

~~11.~~9.—(1) Network Rail may, for the purposes of the Order works, enter on Bromham Road and Spenser Road in the Borough of Bedford within the Order limits to the extent necessary and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) place apparatus in the street;

(c) maintain apparatus in the street or change its position; and

(d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article "apparatus" has the same meaning as in Part 3 of the 1991 Act.

Access to works

~~12.~~10.—(1) Network Rail may, for the purposes of the authorised works—

(a) form and lay out means of access, or alter or improve existing means of access, in the locations marked on the deposited plans; and

(b) form and lay out such other means of access or alter or improve existing means of access at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised works, as may be approved by the highway authority, but such approval must not be unreasonably withheld.

(2) If a highway authority fails to notify Network Rail of its decision within 28 days of receiving an application for approval under paragraph (1), that highway authority is deemed to have granted approval.

PART 4

ACQUISITION AND POSSESSION OF LAND

Powers of Acquisition

Power to acquire land

~~13.~~11.—(1) Network Rail may acquire compulsorily so much of the land shown on the deposited plans and described in the book of reference as may be required for or in connection with the authorised works, and it may use any land so acquired for those purposes or for any other purposes ancillary to the undertaking.

(2) This article is subject to paragraph (2) of article 14 (power to acquire new rights), paragraph (8) of article 17 (temporary use of land for construction of works), and paragraph (7) of article 20 (cranes) and does not apply to any land specified in Schedule 2 (land over which temporary rights of access may be exercised) or the land shown numbered 137, 139 and 140 on sheet 1 ~~and 401 to 403 on sheet 4~~ of the deposited plans.

Application of Part 1 of the 1965 Act

~~14.~~12.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

(a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(**a**) applies; and

(b) as if this Order were a compulsory purchase order under that Act.

(2) In its application by virtue of paragraph (1), the 1965 Act has effect subject to the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(**b**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4", substitute "section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 23 (time limit for exercise of powers of acquisition) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X](**c**)".

(5) In section 11(1B)(**d**) (powers of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for "3 months" substitute "1 month".

(6) In section 11A(**e**) (powers of entry: further notices of entry) –

(**a**) 1981 c. 67.
(**b**) As inserted by section 202(1) of the Housing and Planning Act 2016 (c.22).
(**c**) S.I. 201[ ]/XXX.
(**d**) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.
(**e**) As inserted by section 186(3) of the Housing and Planning Act 2016.

(a) in subsection (1)(a), after "land" insert "under that provision";

(b) in subsection (2), after "land" insert "under that provision".

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for "section 4 of this Act" substitute "article 23 of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X]".

(8) In Schedule 2A(**a**) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 15 (power to acquire subsoil or airspace only) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X], which excludes the acquisition of subsoil or airspace only from this Schedule."; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 17 (temporary use of land for construction of works) and 19 (temporary use of land for maintenance of works) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X]."

Application of the 1981 Act

~~15.~~13.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from ", and this subsection" to the end.

(4) Omit section 5A(**b**) (time limit for general vesting declaration).

(5) In section 5B(**c**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A" substitute "section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 23 (time limit for exercise of powers of acquisition) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X]".

(6) In section 6(**d**) (notices after execution of declaration), in subsection (1)(b), for "section 15 of, or paragraph 6 of Schedule 1 to the Acquisition of Land Act 1981" substitute "section 14A of the Transport and Works Act 1992".

(7) In section 7(**e**) (constructive notice to treat), in subsection (1)(a), omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)".

(8) In Schedule A1(**f**) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

(**a**) As inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016.
(**b**) As inserted by section 182(2) of the Housing and Planning Act 2016.
(**c**) As inserted by section 202(2) of the Housing and Planning Act 2016.
(**d**) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.
(**e**) As inserted by paragraph 3 of schedule 18 to the Housing and Planning Act 2016.
(**f**) As inserted by paragraph 6 of schedule 18 to the Housing and Planning Act 2016.

"(2) But see article 15 (power to acquire subsoil or airspace only) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X], which excludes the acquisition of subsoil or airspace only from this Schedule."

(9) References to the 1965 Act in the 1981 Act are to be construed as references to that Act as applied to the acquisition of land under article 11 (power to acquire land) by article 12 (application of Part 1 of the 1965 Act).

Power to acquire new rights

~~16.~~14.—(1) Subject to paragraph (2) Network Rail may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 11 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the Order land specified in column (2) of Schedule 3 (land in which only new rights etc., may be acquired) Network Rail's powers of compulsory acquisition under article 11(1) (power to acquire land) are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

(3) Subject to—

(a) Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 4 (modification and compensation and compulsory purchase enactments for creation of new rights)); and

(b) Schedule A1 to the 1981 Act (as modified by paragraph 7(7) of Schedule 4);

where Network Rail acquires a right over land under paragraphs (1) or (2) Network Rail is not required to acquire a greater interest in that land.

(4) Schedule 4 has effect for the purpose of modifying the enactments relating to compensation, and the provisions of the 1965 Act and the 1981 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

(5) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (4) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by Network Rail.

Power to acquire subsoil or airspace only

~~17.~~15.—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 11 (power to acquire 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) Where Network Rail acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), Network Rail is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article 12 (application of Part 1 of the 1965 Act)) or Schedule A1 to the 1981 Act (as modified by article 13 (application of The Compulsory Purchase (Vesting Declarations) Act 1981)) from applying where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

~~18.~~16.—(1) Network Rail may enter upon and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised

works and may use the subsoil or airspace for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), Network Rail may exercise any power conferred by paragraph (1) 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) Paragraph (2) does 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.

(4) 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, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession or use of land

Temporary use of land for construction of works

~~19.~~17.—(1) Network Rail may, in connection with the carrying out of the authorised works or the provision of the new public right of way—

(a) enter on and take temporary possession of—

(i) the land specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works or the provision of a new public right of way specified in column (4) of that Schedule; and

(ii) subject to paragraph (11), any other Order land in respect of which no notice of entry has been served under section 11(**a**) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4(**b**) (execution of declaration) of the 1981 Act.

(b) remove any buildings and vegetation from that land;

(c) construct temporary works (including the provision of means of access) and buildings on that land; and

(d) construct any permanent works specified in relation to that land in column (3) of Schedule 5 or any mitigation works on that land.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article—

(**a**) 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), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c.22) and S.I. 2009/1307.

(**b**) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (4) of Schedule 5; or

(b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of this land was taken unless Network Rail has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not be required to replace a building removed under this article or restore the land on which any works have been constructed under paragraph (1)(d).

(5) Network Rail must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 29 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(**a**) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1)(a)(i) except that Network Rail is not precluded from—

(a) acquiring new rights over any part of that land under article 14 (power to acquire new rights); or

(b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 15 (power to acquire subsoil or airspace only).

(9) Where Network Rail takes possession of land under this article, Network Rail is not required to acquire the land or any interest in it.

(10) Section 13(**b**) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 12 (application of Part 1 of the 1965 Act).

(11) Paragraph (1)(a)(ii) does not authorise Network Rail to take temporary possession of any land which it is not authorised to acquire under article 11 (power to acquire land) or any land specified in Schedule 3 (land in which only new rights etc., may be acquired) or Schedule 2 (land over which temporary rights of access may be exercised).

Temporary use of land for access

~~20.~~18.—(1) Network Rail or any person authorised by Network Rail may use any land specified in Schedule 2 (land over which temporary rights of access may be exercised) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in

(**a**) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.
(**b**) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

connection with the construction of the authorised works ~~or, in the case of the land shown marked 301, 302, 303 and 304 on sheets 3A, 3B, 3C and 3D of the deposited plans~~, to allow access to property where access is impeded by the construction of the authorised works.

(2) Network Rail shall pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, shall be determined under Part 1 of the 1961 Act.

(4) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 12 (application of Part 1 of the 1965 Act).

Temporary use of land for maintenance of works

~~21.~~19.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, Network Rail may enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining that work or any ancillary works connected with it.

(2) Paragraph (1) does not authorise Network Rail to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers or the land.

(4) Network Rail may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) Network Rail must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 29 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 12 (application of Part 1 of the 1965 Act).

(11) In this article "the maintenance period" in relation to any of the authorised works means the period of 5 years beginning with the date on which the work is opened for use.

Cranes

~~22.~~20.—(1) Network Rail may enter upon and use airspace above the surface of land specified in paragraph (8) for the oversailing of cranes used by Network Rail in connection with the construction of the authorised works.

(2) The power under paragraph (1) is exercisable on giving at least 7 days' notice to the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, use airspace above the surface of the land as mentioned in paragraph (1) after the end of 7 days beginning with the date of completion of the activities for which the crane has been used.

(4) Network Rail must pay compensation to the owners and occupiers of land above which the power under paragraph (1) is exercised for any loss which they may suffer by reason of the exercise of that power.

(5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the 1961 Act.

(6) Nothing in this section affects any liability to pay compensation under section 10(2) of the 1965 Act (as applied by article 12(1) to the acquisition of land under article 11(1)) or under any other enactment, otherwise than for loss for which compensation is payable under paragraph (4).

(7) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1) except that Network Rail is not precluded from—

(a) acquiring new rights over any part of that land identified in Schedule 3 (land in which only new rights etc., may be acquired); or

(b) the temporary use of land under article 17 (temporary use of land for construction of works) and article 19 (temporary use of land for maintenance of works).

(8) This is the land referred to in paragraph (1)—

Area	*Number of land shown on deposited plans*
County of Bedfordshire Borough of Bedford	111, 112, 122, 128, 130
~~Borough of Bedford~~ ~~Parish of Knotting and Souldrop~~	~~305 to 307~~
County of Northamptonshire District of Wellingborough	610, 611, 613, 620, 623, 628
~~Districts of Wellingborough and Kettering~~ ~~Parishes of Isham and Burton Latimer~~	~~704, 705, 710, 711, 713 to 717, 719~~

Compensation

Disregard of certain interests and improvements

~~23.~~21. In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on the relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Extinction or suspension of private rights of way

~~24.~~22.—(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 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,

whichever is the sooner.

(2) Subject to paragraph (6), all private rights of way over land owned by Network Rail 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 Network Rail.

(3) Subject to paragraph (6), 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.

(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(**a**) of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

(6) Paragraphs (1), (2), and (3) 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.

(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

~~25.~~23.—(1) After the end of the period of 5 years beginning on 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 12 (application of part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act(**b**) as applied by article 13 (application of the 1981 Act).

(2) The powers conferred by article 17 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(**a**) Section 272 was amended by paragraphs 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).
(**b**) 1981 c. 66.

PART 5

MISCELLANEOUS AND GENERAL

Statutory undertakers etc.

~~26.~~24. The provisions of Schedule 6 (provisions relating to statutory undertakers etc.) have effect.

Obstruction of construction of authorised works

~~27.~~25. Any person who, without reasonable excuse—

(a) obstructs any person acting under the authority of Network Rail in setting out the lines of the authorised works or in constructing any authorised work; or

(b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of Network Rail,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to survey and investigate land

~~28.~~26.—(1) Network Rail may for the purposes of this Order—

(a) survey or investigate any land shown within the Order limits;

(b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and

(e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of Network Rail—

(a) must, if so required, before or after entering the land produce written evidence of authority to do so including any warrant issued under paragraph (4);

(b) may not use force unless a justice of the peace has issued a warrant under paragraph (4) authorising the person to do so; and

(c) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—

(a) that another person has prevented or is likely to prevent the exercise of that power; and

(b) that it is reasonable to use force in the exercise of that power.

(5) The force that may be authorised by a warrant is limited to that which is reasonably necessary.

(6) A warrant authorising the person to use force must specify the number of occasions on which Network Rail can rely on the warrant when entering and surveying or valuing land.

(7) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.

(8) Any evidence in proceedings for a warrant under this article must be given on oath.

(9) No trial holes are to be made under this article—

(a) in a carriageway or footway without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(10) Network Rail must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) If either a highway authority or a street authority which receives an application for consent fails to notify Network Rail of its decision within 28 days of receiving the application for consent—

(a) under paragraph (9)(a) in the case of a highway authority; or

(b) under paragraph (9)(b) in the case of a street authority,

that authority is deemed to have granted consent.

Certification of plans etc.

~~29.~~27. Network Rail must, as soon as practicable after the making of this Order, submit copies of the book of reference and the deposited plans to the Secretary of State for certification that they are, respectively, true copies of the book of reference and the deposited plans referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

~~30.~~28.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post; or

(b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(**a**) 1978 c. 30

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

No double recovery

~~31.~~29. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

~~32.~~30. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by the authority of the Secretary of State

Natasha Kopala
Head of the Transport and Works Act Orders Unit
Department for Transport

Date

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED WORKS

In the following table—

"the 1853 Act" means the Midland Railway (Leicester and Hitchin) Act 1853(**a**);

"the 1873 Act" means the Midland Railway (Additional Powers) Act 1873(**b**);

"the 1876 Act" means the Midland Railway (New Works, &c.) Act 1876(**c**);

"the 1845 Clauses Act" means the Railways Clauses Consolidation Act 1845(**d**).

(1) *Number of land shown on the deposited plans*	*(2)* *Description of work*	*(3)* *Authorising Act*
~~701 to 719~~	~~Reconstruction of bridge 58 carrying Station Road over the Midland Main Line railway~~	~~Section 16 of the 1845 Clauses Act as incorporated with the 1853 and 1873 Acts.~~
~~301 to 312~~	~~Reconstruction of bridge 68 carrying Back Lane over the Midland Main Line railway~~	~~Section 16 of the 1845 Clauses Act as incorporated with the 1853, 1873 and 1876 Acts.~~
601 to 634	Reconstruction of bridge 83 carrying Irthlingborough Road over the Midland Main Line railway	Section 16 of the 1845 Clauses Act as incorporated with the 1853 and 1873 Acts.
201 to 204	Attaching apparatus to Sharnbrook Viaduct	Section 16 of the 1845 Clauses Act as incorporated with the 1853, 1873 and 1876 Acts.
501 to 504	Attaching apparatus to Irchester Viaduct	Section 16 of the 1845 Clauses Act as incorporated with the 1853, 1873 and 1876 Acts.
801 to 804	Attaching apparatus to Harpers Brook Viaduct	Section 16 of the 1845 Clauses Act as incorporated with the Midland Railway (Additional Powers) Act 1874(**e**).

(**a**) 1853 c.cviii
(**b**) 1873 c.ccx
(**c**) 1876 c.cxlv
(**d**) 1845 c.20
(**e**) 1874 c.clx

SCHEDULE 2

Article 11 and 18

LAND OVER WHICH TEMPORARY RIGHTS OF ACCESS MAY BE EXERCISED

(1) *Area*	*(2)* *Number of land shown on the deposited plans*
County of Bedfordshire Borough of Bedford	135
~~Borough of Bedford~~ ~~Parish of Knotting and Souldrop~~	~~301 to 304, 311~~
County of Northamptonshire District of Wellingborough	601, 602

SCHEDULE 3

Article 14

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

(1) *Area*	*(2)* *Number of land shown on the deposited plans*	*(3)* *Purpose for which rights may be acquired*
County of Bedfordshire Borough of Bedford Parishes of Felmersham and Sharnbrook	201 to 204	Attaching apparatus to existing railway infrastructure
County of Northamptonshire District of Wellingborough Parish of Irchester	501 to 504	Attaching apparatus to existing railway infrastructure
~~Districts of Wellingborough and Kettering~~ ~~Parishes of Isham and Burton Latimer~~	~~703, 705, 719~~	~~Access for construction and maintenance~~
Districts of Kettering and Corby Parish of Newton and Little Oakley	801 to 804	Attaching apparatus to existing railway infrastructure

SCHEDULE 4

Article 14

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

"(5A) If—

(a) the acquiring authority enter on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 4 to the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X] ("the 201[X] Order"));

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 4 to the 201[X] Order) to acquire an interest in the land; and

(c) the acquiring authority enter on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right."

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) for the words "land is acquired or taken" substitute "a right over land is purchased"; and

(b) for the words "acquired or taken from him" substitute "over which the right is exercisable".

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by article 12 (application of Part 1 of the 1965 Act) to the acquisition of land under article 11 (power to acquire land), applies to the compulsory acquisition of rights under article 14(1) or (2) (power to acquire new rights)—

(a) with the modification specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

(3) For section 7 (measure of compensation in the case of severance) of the 1965 Act substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

(**a**) 1973 c. 26.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

(5) Section 11(**a**) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 13(1)), it has power, exercisable in the equivalent circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right; and sections 11A(**b**) (powers of entry: further notices of entry), 11B(**c**) (counter-notice requiring possession to be taken on specified date), 12(**d**) (penalty for unauthorised entry) and 13(**e**) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(**f**) (protection for interests of tenants at will etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article 19(7)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

(**a**) 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), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(**c**) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c. 22).

(**d**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(**e**) Section 13 was amended by section 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals Courts and Enforcement Act 2007 (c. 15).

(**f**) Section 20 was amended by paragraph 4 of Schedule 15 of, the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over the whole or part of a house, building or factory.

(2) But see article 15(3) (power to acquire subsoil or airspace only) of the Network Rail (London to Corby)(Land Acquisition~~, Level Crossing~~ and Bridge Works) Order 201[X], which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right,

(b) the proposed use of the right to be acquired, and

(c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal."

Application of compulsory Purchase (Vesting Declarations) Act 1981

6.—(1) The 1981 Act, as applied by article 13 to the acquisition of land under article 11 (power to acquire land), applies to a compulsory acquisition of a right under article 14 (power to acquire new rights)—

(a) with the modifications specified in paragraph 1(1); and

(b) with such other modifications as may be necessary.

(2) The enactments relating to compensation for the compulsory purchase of land also apply to a compulsory acquisition of a right under article 14.

7.—(1) The modifications referred to in paragraph 1(1)(a) are as follows.

(2) References in the 1981 Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is, or is to be, exercisable.

(3) References to the 1981 Act to the 1965 Act are to be read as references to that Act as it applies to a compulsory acquisition of a right under article 14.

(4) Section 8(1) of the 1981 Act (vesting, and right to enter and take possession) is modified so as to secure—

(a) that a general vesting declaration in respect of any right vests the right in the acquiring authority on the vesting date; and

(b) that, as from the vesting date, the acquiring authority has power, exercisable in the same circumstances and subject to the same conditions, to enter land for the purpose of exercising that right as if the circumstances mentioned in section 8(1)(a) and (b) of the 1981 Act had arisen.

(5) Section 9(2) (right of entry under section 8(1) not exercisable in respect of land subject to certain tenancies, unless notice has been served on occupiers of the land) of the 1981 Act is modified so as to require a notice served by the appropriate authority under that provision to refer to the authority's intention to enter land specified in the notice in order to exercise the right.

(6) In section 10(1) (acquiring authority's liability on the vesting of land) of the 1981 Act, the reference to the acquiring authority's taking possession of the land under section 11(1) of the 1965

Act is to be read instead as a reference to the authority's exercising the power to enter the land under that provision as modified by paragraph [TBC 3(5)] of this Schedule.

(7) Schedule A1 to the 1981 Act (counter-notice requiring purchase of land not in general vesting declaration) has effect as if—

(a) in paragraph (1), for "part only of" there were substituted "only the acquisition of a right over",

(b) paragraph 1(2) were omitted,

(c) references to the land proposed to be acquired were (subject to paragraph (e) below) to the right proposed to be acquired,

(d) references to the additional land were to the house, building or factory over which the right is proposed to be exercisable,

(e) in paragraphs 14 and 15, references to the severance of the land proposed to be acquired were to the acquisition of the right, and

(f) in paragraph 15, after "in addition to" there were substituted "or in substitution for".

SCHEDULE 5

Article 17

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Area*	*(2)* *Number of land shown on the deposited plans*	*(3)* *Purpose for which temporary possession may be taken*	*(4)* *Relevant part of the authorised works*
County of Bedfordshire Borough of Bedford	101, 102, 105 to 109, 125 to 127	Highway works	The Order works
	110, 111, 120, 121, 128, 129, 132, 134, 138	Worksite	The Order works
	118, 119, 124	Highway works and a temporary bridge	The Order works
	122, 123	Worksite and a temporary bridge	The Order works
~~Borough of Bedford Parish of Knotting and Souldrop~~	~~305 to 310, 312~~	~~Worksite~~	~~Reconstruction of bridge 68~~
	~~404 to 406~~	~~Provision of a new public right of way~~	~~Provision of a new public right of way~~
County of Northamptonshire District of Wellingborough	603, 604, 607, 611, 614, 615, 617 to 619, 622, 632 to 634	Worksite	Reconstruction of bridge 83
~~Districts of Wellingborough and Kettering Parishes of Isham and~~	~~701, 702, 706, 710, 711, 715 to 717~~	~~Worksite~~	~~Reconstruction of bridge 58~~

~~Burton Latimer~~			
	~~705~~	~~Worksite and access for construction and maintenance~~	~~Reconstruction of bridge 58~~
	~~718~~	~~Temporary car park~~	~~Reconstruction of bridge 58~~

SCHEDULE 6

Article 24

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

8.—(1) Sections 271 to 274(**a**) (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) of the 1990 Act apply in relation to any land acquired or appropriated by Network Rail under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282(**b**), which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which paragraph 2, or Part 3 of the 1991 Act, applies.

(6) In this paragraph—

"public communications provider" has the same meaning as in section 151(1) of the 2003 Act; and

"public utility undertakers" has the same meaning as in the 1980 Act (**c**).

(**a**) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).
(**b**) Section 279(3) was amended by paragraphs 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.
(**c**) The definition of "public utility undertakers" was amended by section 190(3) of, and part 1 of Schedule 27 to, the Water Act 1989 (c. 15) and section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29).

Apparatus of statutory undertakers etc. in stopped up streets

9. (1) Where a street is stopped up under article 7 (closure of Souldrop level crossing) any statutory utility whose apparatus is under, in, upon, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a street is stopped up under article 7 any statutory utility whose apparatus is under, in, upon, over, along or across the street may, and if reasonably requested to do so by Network Rail must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in that other position.

(3) Subject to the following provisions of this paragraph, Network Rail must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

(a) the execution of the relocation works required in consequence of the stopping up of the street; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under sub-paragraph (2)—

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by Network Rail, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of sub-paragraph (4)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Sub-paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—

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~~(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and~~

~~(b) the allowable costs are to be borne by Network Rail and the statutory utility in such proportions as may be prescribed by any such regulations.~~

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~~(8)~~(7) In this paragraph—

"apparatus" has the same meaning as in Part 3 of the 1991 Act;

"relocation works" means work executed, or apparatus provided, under sub-paragraph (2); and

"statutory utility" means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in paragraph 1(6).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers powers on Network Rail Infrastructure Limited to acquire compulsorily land and rights in land and to use land temporarily in connection with the alteration and improvement of the Midland Mainline railway between London and Corby.

The Order also confers powers on Network Rail Infrastructure Limited ~~to stop up the level crossing at Souldrop in the County of Bedfordshire, and the creation of an alternative public right of way and powers~~ to reconstruct the bridge carrying Bromham Road over the railway.

Copies of the deposited plans and the book of reference referred to in the Order may be inspected at the offices of the Company Secretary and Solicitor to Network Rail Infrastructure Limited at Network Rail National Records Centre, Unit 5, Audax Road, Clifton Moor, York, YO30 4US.