

**TRANSPORT AND WORKS ACT 1992  
TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND  
AND WALES) RULES 2006**

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**THE NETWORK RAIL  
(CHART LEACON) (ORDER 201[X])**

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**EXPLANATORY MEMORANDUM**

This memorandum explains the purpose and effect of each article and schedule in the draft Order, as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2006 (S.I. 2006 No.1466).

The Order would confer powers of compulsory acquisition on Network Rail Infrastructure Limited ('Network Rail') for the purpose of facilitating the development and operation of a light maintenance depot facility at Chart Leacon. The development would be constructed pursuant to planning permission granted by the local planning authority and to permitted development rights.

The Order is based on the Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (S.I. 2006 No. 1954) ("the model clauses"). Material departures from the model clauses are explained below.

PART 1  
Preliminary

- Article 1            (***Citation and commencement***) provides for the commencement and the coming into force of the Order.
- Article 2            (***Interpretation***) contains provisions for the interpretation of words and phrases used in the Order. Definitions additional to those set out in the model clauses have been included in the article to provide clarity, taking into account the specific provisions of the Order. A new paragraph (4) explains that references to numbered plots are references to plot numbers on the land plan. This wording reflects that used in the recent The Network Rail (Werrington Grade Separation) Order 2018. A new paragraph (5) explains that references to hatched land are references to land shown hatched on the stopping up plan.

PART 2  
Acquisition and Possession of Land

*Powers of acquisition*

- Article 3            (***Power to acquire land***) would authorise the compulsory acquisition of the land shown on the land plan and described in the book of reference so far as required for the purposes of the authorised works, or for any other purposes connected with Network Rail's undertaking. This Article is subject to Articles 6 and 8 which limit the acquisition rights in respect of some plots (to rights only and to a temporary period respectively).
- Article 4            (***Application of Part 1 of the 1965 Act***) provides for Part 1 of the Compulsory Purchase Act 1965 (as modified by the Order) to apply to the acquisition of land

under the Order as it would to a compulsory purchase order made under the Acquisition of Land Act 1981. Additional clauses to those included in the model clauses have been included to reflect changes made to the 1965 Act by the Housing and Planning Act 2016 in respect of powers of entry. The modifications have precedent in the Network Rail (Buxton Sidings Extension) Order 2017 and The Network Rail (Felixstowe Branch Line Improvements – Level Crossings Closure) Order 2018.

Article 5 (**Application of the 1981 Act**) provides for the application, with modifications, of the Compulsory Purchase (Vesting Declarations) Act 1981 to the Order. This article would enable Network Rail to acquire land subject to compulsory purchase powers via the vesting procedure. Modifications to the model clauses have been included to reflect changes made to the Compulsory Purchase (Vesting Declarations) Act 1981 by the Housing and Planning Act 2016. Those modifications have precedent in The Network Rail (Buxton Sidings Extension) Order 2017 and The Network Rail (Felixstowe Branch Line Improvements – Level Crossings Closure) Order 2018.

Article 6 (**Powers to acquire new rights**) would permit Network Rail to create and acquire easements and other new rights affecting land. In the case of the land specified in Schedule 3 to the Order, only rights may be acquired over that land for the purpose specified in that Schedule. Schedule 1 makes modifications to relevant enactments concerning compulsory acquisition and compensation in relation to the acquisition of rights under Article 6. The modifications reflect the changes to the law relating to compulsory acquisition and have precedent in The Network Rail (Felixstowe Branch Line Improvements – Level Crossings Closure) Order 2018.

Article 7 (**Power to acquire subsoil only**) would permit Network Rail to compulsorily acquire the subsoil, or rights in the subsoil, rather than acquiring the whole of the land.

#### *Temporary possession of land*

Article 8 (**Temporary possession of land**) provides that Network Rail may take temporary possession of land (i) specified in Schedule 2 (land of which temporary possession may be taken) and (ii) any other land which within the limits of the land to be acquired or used (other than land listed in Schedule 3). The model clauses have been amended to add clarity as to the scope of works that can be carried out on the land which may be temporarily possessed.

#### *Compensation*

Article 9 (**Disregard of certain interests and improvements**) provides for the disregarding of certain interests in and enhancements to the value of land for the purposes of assessing compensation with respect to its compulsory acquisition where the creation of the interest or the making of the enhancement was designed with a view to obtaining compensation or increased compensation.

Article 10 (**Set-off for enhancement in value of retained land**) provides that in assessing the compensation payable to any person in respect of the acquisition of any land, the Lands Chamber of the Upper Tribunal shall set off against the value of the land any increase in value of any contiguous or adjacent land belonging to that person arising out of the construction of the authorised works.

#### *Supplementary*

Article 11 (***Extinction or suspension of private rights of way***) provides for the extinguishment of private rights of way over land compulsorily acquired, and the suspension of private rights of way during the lawful temporary possession of land.

Article 12 (***Time limit for exercise of powers of acquisition***) imposes a time limit of five years from the coming into force of this Order for the exercise of powers of compulsory acquisition of land under article 3 and the temporary occupation of land under article 8 (temporary possession of land for construction of works).

### PART 3 MISCELLANEOUS AND GENERAL

Article 13 (***Streets to be stopped up***) provides for Network Rail permanently to stop up the street specified in Schedule 4 (street to be stopped up). Paragraph (2) provides for all rights of way along any stopped up street to be extinguished, whilst paragraph (3) provides for payment of compensation to any person suffering loss as a result of the extinguishment of any private rights of way. The proposed clause differs from the model clause as it does not include any conditionality regarding the stopping up. Some of the conditions in the model clause relate to the land abutting on either side of the street to be stopped up. The configuration of the land subject to this Article (with trees and fencing on the land abutting on either side) means those conditions are not appropriate to the circumstances of the abutting land. As a result part of the model clause wording has been excluded.

Article 14 (***Power to survey and investigate land***) confers upon Network Rail (subject to giving notice to every owner and occupier of that land) power to survey and investigate land within the Order limits or which may be affected by the authorised works and to make trial holes, carry out ecological or archaeological investigations and place on, leave on and remove apparatus. Provision is made for the payment of compensation. The drafting is based on section 173 of the Housing and Planning Act 2016 and reflects that in The Network Rail (Felixstowe Branch Line Improvements – Level Crossings Closure) Order 2018.

Article 15 (***Disclosure of confidential information***) provides that any person who enters a factory, workshop or workplace in pursuance of the provisions of article 13 (power to survey and investigate land) and discloses any confidential information obtained in relation to any manufacturing process or trade secret is guilty of an offence.

Article 16 (***Statutory undertakers etc***) applies Schedule 5 which makes provision in respect of any apparatus belonging to a statutory utility in land acquired (Part 1) and land to be stopped up (Part 2).

Article 17 (***Certification of plans etc***) requires Network Rail to submit the book of reference, land plan and stopping up plan to the Secretary of State for certification after the making of this Order.

Article 18 (***Service of notices***) makes provision as to the service of notices or other documents for the purposes of the Order.

Article 19 (***No double recovery***) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or rule of law.

Article 20 (***Arbitration***) provides for differences under the Order to be settled by arbitration

## SCHEDULES

- Schedule 1 **(Modification of compensation and compulsory purchase enactments for creation of new rights)** sets out the modifications made to relevant enactments concerning compensation and compulsory acquisition in relation to the acquisition of rights under the Order.
- Schedule 2 **(Land of which temporary possession may be taken)** sets out the land of which Network Rail may take temporary possession under article 8 of the Order. The purposes for which rights may be temporarily possessed are specified in column (3) of the table in Schedule 2.
- Schedule 3 **(Land in which only new rights may be acquired)** sets out the land over which Network Rail's powers of compulsory acquisition under the Order are limited to the acquisition of rights only in the land. The purposes for which rights may be acquired in respect of the land are specified in column (3) of the table in Schedule 3.
- Schedule 4 **(Street to be stopped up)** sets out the extent of the street which Network Rail may stop up permanently under the Order. The extent of the land to be stopped up is described in column (3) by reference to the hatching on the stopping up plan.
- Schedule 5 **(Provisions relating to statutory undertakers etc)** makes provision in respect of any apparatus belonging to a statutory utility in the land acquired (in Part 1) and in stopped up streets (in Part 2).
- Schedule 6 **(Protective provisions)** sets out the protective measures for electricity, gas, water and sewerage undertakers (in Part 1) and operators of electronic communications code networks (in Part 2).