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**Changes to legislation:** There are currently no known outstanding effects for the High Speed Rail (London - West Midlands) Act 2017, SCHEDULE 15. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 15

Section 12

#### EXTINCTION OF RIGHTS OVER LAND

##### *Land to which Schedule applies*

- 1 This Schedule applies to—
- (a) land within the Act limits which is held by the Secretary of State for Phase One purposes, and
  - (b) land within the Act limits in relation to which the Secretary of State has acquired a right (whether by creating a new right or acquiring an existing right) or imposed a restrictive covenant for Phase One purposes.

##### *Private rights*

- 2 (1) All private rights over land within paragraph 1(a) are extinguished at the appropriate time.
- (2) All private rights over land within paragraph 1(b) are extinguished at the appropriate time, so far as the continuance of those rights would be inconsistent with the exercise of the right acquired or the restrictive covenant imposed.
- (3) In this Schedule, “private rights” include—
- (a) private rights of way over land,
  - (b) rights of common,
  - (c) easements, liberties, privileges, rights or advantages annexed to land and adversely affecting other land, including any natural right to support, and
  - (d) restrictions as to the user of land arising under a contract.
- (4) Where the power under section 11(1) of the Compulsory Purchase Act 1965 (power of entry following notice to treat) is exercised in the case of land within paragraph 1(a) or (b), sub-paragraph (1) or (2) (as the case may be) has effect in relation to rights of common over the land notwithstanding anything in Schedule 4 to that Act (which preserves rights of common over land until payment of compensation).
- 3 (1) The Secretary of State may, in relation to a private right, direct—
- (a) that paragraph 2 does not apply to the right, or
  - (b) that paragraph 2 applies to the right only to the extent specified in the direction.
- (2) A direction under sub-paragraph (1) must be given before the appropriate time.
- (3) Paragraph 2 does not apply to—
- (a) a right over land which, were the land held otherwise than by the Secretary of State, would not be capable of being acquired under section 4(1), or

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- (b) a right to which section 271 or 272 of the Town and Country Planning Act 1990 (extinguishment of rights of statutory undertakers etc) applies (and see section 13 as to the application of those sections).
- 4 (1) Any person who suffers loss by the extinction of a private right under paragraph 2 is entitled to be compensated by the nominated undertaker.
- (2) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (3) This paragraph does not apply where compensation in respect of rights of common is payable under Schedule 4 to the Compulsory Purchase Act 1965.

#### *General rights*

- 5 (1) All general rights over land within paragraph 1(a) are extinguished at the appropriate time.
- (2) All general rights over land within paragraph 1(b) are extinguished at the appropriate time, so far as the continuance of those rights would be inconsistent with the exercise of the right acquired or the restrictive covenant imposed.
- (3) In this Schedule, references to ““general rights”” over land are to—
  - (a) rights to access land (however expressed) which are exercisable as a result of section 2(1) of the Countryside and Rights of Way Act 2000 or an enactment mentioned in section 15 of that Act,
  - (b) other public rights over land which are conferred by an enactment, and
  - (c) rights exercisable as a result of trusts or incidents to which a common, town or village green, open space or allotment is subject.
- 6 (1) The Secretary of State may, in relation to a general right, direct—
  - (a) that paragraph 5 does not apply to the right, or
  - (b) that paragraph 5 applies to the right only to the extent specified in the direction.
- (2) A direction under sub-paragraph (1) must be given before the appropriate time.

#### *Meaning of ““the appropriate time””*

- 7 (1) References in this Schedule to ““the appropriate time”” are to be read as follows.
- (2) In the case of—
  - (a) land held immediately before the day on which this Act is passed, or
  - (b) land which, immediately before that day, was land in relation to which a right had been acquired or a restrictive covenant had been imposed,
 the appropriate time is the end of the period of 14 days beginning with that day.
- (3) In the case of—
  - (a) land acquired on or after the day on which this Act is passed, or
  - (b) land in relation to which a right has been acquired or a restrictive covenant has been imposed on or after that day,
 the appropriate time is the time of acquisition or (in the case of a restrictive covenant) imposition.

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- (4) Sub-paragraph (3) is subject to sub-paragraphs (5) and (6) (which apply to land or a right acquired compulsorily or to a restrictive covenant imposed compulsorily).
- (5) Where the power under section 11(1) of the Compulsory Purchase Act 1965 has been exercised in relation to the land, the appropriate time is—
- (a) the time of entry under that provision, or
  - (b) in the case of the acquisition of a right or the imposition of a restrictive covenant, the time when the power to enter the land for the purpose of exercising the right or enforcing the covenant becomes exercisable under that provision (as modified in accordance with paragraph 2(6) of Schedule 9).
- (6) Where a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 has been made in relation to the land, the appropriate time is the vesting date (within the meaning of that Act).

*Amendments to registers of common land or town or village greens*

- 8 (1) This paragraph applies where—
- (a) the Secretary of State acquires land within the Act limits for Phase One purposes, or
  - (b) the Secretary of State acquires a right, or imposes a restrictive covenant, over land within the Act limits.
- (2) The Secretary of State must notify the commons registration authority of the acquisition or (in the case of a restrictive covenant) imposition if it relates to—
- (a) land registered in a register of common land as common land,
  - (b) land registered in a register of town or village greens as a town or village green, or
  - (c) a right of common registered in relation to land within paragraph (a) or (b).
- (3) A notice under sub-paragraph (2) must include—
- (a) a copy of this Schedule,
  - (b) a copy of the instrument by which the acquisition or imposition was effected,
  - (c) the number of the register unit and (where applicable) the number of the rights section entry in the register of common land or of town or village greens to which the notice relates, and
  - (d) a description of the amendment required to the register in question in consequence of the acquisition or imposition.
- (4) Sub-paragraph (5) applies where, in connection with the acquisition or imposition—
- (a) other land is given in exchange, or
  - (b) other land is to be made subject to a right of common equivalent to a right of common extinguished by virtue of paragraph 2.
- (5) The notice under sub-paragraph (2) must contain—
- (a) details of the land being given or the right of common being granted, and
  - (b) an application for (as the case may be)—
    - (i) the registration of the land as common land or as a town or village green, or
    - (ii) the registration of the right being granted.

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- (6) The commons registration authority must make such amendments as may be necessary to a register in consequence of sub-paragraph (2) (including any amendments necessary in consequence of sub-paragraph (5)).
- (7) Nothing in—
- (a) regulations under section 14 of the Commons Act 2006, or
  - (b) regulations under section 13 of the Commons Registration Act 1965,
- applies to an acquisition or imposition mentioned in sub-paragraph (1).

*Interpretation*

- 9 In this Schedule—
- (a) references to section 11(1) of the Compulsory Purchase Act 1965 are to that provision as applied by section 4(3) of this Act to the acquisition of land under section 4(1) of this Act;
  - (b) references to section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 are to that section as applied by section 4(4) of this Act to the acquisition of land under section 4(1) of this Act;
  - (c) “right of common” has the same meaning as in the Commons Act 2006.

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