

ENVIRONMENT & INFRASTRUCTURE

TRANSPORT

HS2

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) ACT 2017 COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981 TO: PERSONS HAVING A RELEVANT INTEREST IN THE LAND DESCRIBED IN THE SCHEDULE HERETO

1. The High Speed Rail (London – West Midlands) Act 2017 ("the High Speed Rail Act") received Royal Assent on 23 February 2017.
2. The Secretary of State for Transport (the "Acquiring Authority") is authorised under section 4 of the High Speed Rail Act to exercise powers under section 4(1) of the High Speed Rail Act to acquire compulsorily so much of the land within the limits of the High Speed Rail Act as may be required for Phase One purposes¹.
3. By virtue of section 4(4) of the High Speed Rail Act, the Compulsory Purchase (Vesting Declarations) Act 1981 ("the 1981 Act") applies as if the High Speed Rail Act were a compulsory purchase order.
4. By virtue of paragraph 4(2) of Schedule 6 to the High Speed Rail Act, Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 (exception of minerals from compulsory purchase and regulation of working of mines or minerals underlying an authorised undertaking) have effect in relation to land to which section 4(1) of the High Speed Rail Act applies as if it were comprised in a compulsory purchase order providing for the incorporation with that order of those Parts of that Schedule.
5. Paragraph 2(1) of Part 2 of Schedule 2 to the Acquisition of Land Act 1981 provides that an acquiring authority shall not be entitled to any mines under the land comprised in the compulsory purchase order unless they have been expressly purchased, and all mines under the land are to be deemed to be excepted out of the conveyance of that land unless expressly named and conveyed. Paragraph 3 of Part 3 of Schedule 2 to the Acquisition of Land Act 1981 makes provision where the owner of any mines or minerals in the land desires to work them.
6. Pursuant to section 3A of the 1981 Act² before making a general vesting declaration ("GVD") under section 4 of the 1981 Act the Acquiring Authority must, in a notice which is (a) given to every person with a relevant interest in the land with respect to which a GVD is to be made (other than a mortgagee who is not in possession); and (b) published in the London Gazette, include the particulars in section 3A(3) of the 1981 Act³.
7. Notice is hereby given pursuant to section 3A of the 1981 Act⁴.
8. Pursuant to section 3A(3) of the 1981 Act, a Statement of the Effect of Parts 2 and 3 of the 1981 Act is contained in Part 1 of Schedule 2 to this notice, which provides an explanation of the process for and the effect of a GVD in respect of the land described in Schedule 1 hereto. Part 1 of Schedule 2 to this notice also invites any person who would be entitled to claim compensation if a GVD were executed under section 4 of the 1981 Act to give the Acquiring Authority information about the person's name, address and interest in the land using the form set out in Part 2 of Schedule 2.
9. For the avoidance of doubt, the Acquiring Authority intends to purchase the Land and the freehold mines and minerals comprised in the land described in Schedule 1 hereto and, if so, will expressly name them in the GVD.

SCHEDULE 1 CITY OF BIRMINGHAM

(1) Plot No
52998

(2) Description

All interests in 175.45 square metres, or thereabouts, of wooded area (Erskine Street) including all those mines and minerals beneath excluding any interest held by Secretary of State for Transport

SCHEDULE 2

PART 1

STATEMENT OF EFFECT OF PARTS 2 AND 3 OF THE COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981 POWER TO EXECUTE A GENERAL VESTING DECLARATION

1. The Acquiring Authority may acquire any of the freehold mines and minerals comprised in the Land, together with the right to take possession of the mines and minerals, to win and work them and all related ancillary rights described in Schedule 1 above by executing a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 ("the 1981 Act"). This has the effect, subject to paragraphs 3 and 5 below, of vesting the freehold mines and minerals comprised in the Land, together with the right to take possession of the mines and minerals, to win and work them and all related ancillary rights in the Acquiring Authority at the end of the period mentioned in paragraph 2 below.

NOTICES CONCERNING GENERAL VESTING DECLARATION

2. As soon as may be after the Acquiring Authority executes a general vesting declaration, they must serve notice of it on every occupier of any of the freehold mines and minerals comprised in the Land, specified in the declaration (except where there is one of the tenancies described in paragraph 4) and on every person who gives them information relating to the mines and minerals in pursuance of the invitation contained in any notice. When the service of notices of the general vesting declaration is completed, a period specified in the declaration, of not less than three months, will begin to run. On the first day after the end of this period the freehold mines and minerals comprising in the Land described in the declaration will, subject to what is said in paragraphs 3 and 5, vest in the Acquiring Authority together with the right to take possession of the mines and minerals, to win and work such mines and minerals and all related ancillary rights. Every person on whom the Acquiring Authority could have served a notice to treat in respect of his interest in the mines and minerals comprised in the Land (other than a tenant under one of the tenancies described in paragraph 4) will be entitled to claim compensation for the acquisition of his interest in the mines and minerals comprised in the Land, with interest on the compensation from the vesting date.

3. The "vesting date" for any mines and minerals comprised in the land specified in a declaration will be the first day after the end of the period mentioned in paragraph 2 above, unless a counter-notice is served under Schedule A1 to the 1981 Act⁵ within that period. In such circumstances, the vesting date for the mines and minerals comprised in the land which is the subject of the counter-notice will be determined in accordance with Schedule A1.

MODIFICATIONS WITH RESPECT TO CERTAIN TENANCIES

4. In the case of certain tenancies, the position stated above is subject to modifications. The modifications apply where the tenancy is either a "minor tenancy", i.e. a tenancy for a year or a yearly tenancy or a lesser interest, or "a long tenancy which is about to expire". The latter expression means a tenancy granted for an interest greater than a minor tenancy but having on the vesting date a period still to run which is not more than the period specified in the declaration for this purpose (which must be more than a year). In calculating how long a tenancy has still to run, where any option to renew or to terminate it is available to either party, it shall be assumed that the landlord will take every opportunity open to him to terminate the tenancy while the tenant will use every opportunity to retain or renew his interest.

5. The modifications are that the Acquiring Authority may not exercise the right of entry referred to in paragraph 2 in respect of land subject to a tenancy described in paragraph 4 unless the Acquiring Authority first serves notice to treat in respect of the tenancy and then serves every occupier of the land with a notice of intention to enter and take