STATUTORY INSTRUMENTS

2015 No. 1684

The Network Rail (Blackthorn and Piddington) (Land Acquisition) Order 2015

PART 2

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

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7.—(1) Network Rail may, in connection with the carrying out of the authorised works, enter upon and take temporary possession of—

(a) the land specified in columns (1) and (2) of Schedule 2 (land of which temporary possession may be taken) for the purposes specified in column (3) of that Schedule; and

(b) any other land within the limits of land to be acquired or used in respect of which no notice of entry has been served under section 11(**1**) (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 (execution of declaration) of the 1981 Act.

(2) Not less than 14 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 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) in the case of land specified in columns (1) and (2) of Schedule 2, 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 (3) of Schedule 2; or

(b) in the case of land referred to in paragraph (1)(b), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the 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 required to replace a building removed in connection with the carrying out of the authorised works.

(**1**) 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) and S.I. 2009/1307.

(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 compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 16 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(**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 (5).

(8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to land referred to in paragraph (1)(a) except that Network Rail is not precluded from acquiring new rights over any part of that land under article 6 (power to acquire new rights).

(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(**3**) (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 acquisition of land under the Order by virtue of article 4(1) (application of Part 1 of the 1965 Act).

(**2**) 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.

(**3**) 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).