
STATUTORY INSTRUMENTS

2016 No. 844

The Hornsea Two Offshore Wind Farm Order 2016

PART 5

Powers of acquisition, etc.

Private rights

21.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under article 18 cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 18—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act⁽¹⁾ (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 19 cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with section 152 of the 2008 Act 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 to which section 138 of the 2008 Act⁽²⁾ (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 28 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(1) Section 11(1) was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 and paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1).

(2) Section 138 was amended by section 23(4) of the Growth and Industry Act 2013 (c.27).

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land, or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker’s appropriation of it,
 - (iii) the undertaker’s entry onto it, or
 - (iv) the undertaker’s taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; or
 - (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (7) If an agreement referred to in paragraph (6)(b)—
- (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

- (9) Where—
- (a) one undertaker exercises a power under article 18 or 19 in respect of land or rights; and
 - (b) the other undertaker subsequently exercises such a power in respect of the same land or rights,

any right so acquired by the undertaker referred to in sub-paragraph (a) does not cease to have effect in consequence of the exercise of the power referred to in sub-paragraph (b) unless the undertaker referred to in sub-paragraph (a) gives consent, such consent not to be unreasonably withheld.

Commencement Information

II Art. 21 in force at 7.9.2016, see [art. 1\(2\)](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea Two Offshore Wind Farm Order 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 Pt.03 para. 6(l) words substituted by [S.I. 2016/1104 Sch.](#)
- Sch. 12 Pt. 6 para. 5(a) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 118\(4\)](#)