
STATUTORY INSTRUMENTS

2022 No. 853

The Sizewell C (Nuclear Generating Station) Order 2022

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Temporary use of land for carrying out authorised development

39.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (2) of Schedule 17 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any land within the permanent limits in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) and no declaration has been made under section 4(1) of the 1981 Act (execution of declaration);
- (b) remove any electric line, electrical plant, structures, apparatus, buildings and vegetation from that land;
- (c) construct temporary or permanent works comprised within the authorised development (including the provision of means of access and buildings or structures on that land);
- (d) construct any works specified in relation to that land in column (3) of Schedule 17, or any other mitigation works; and
- (e) temporarily possess any land (including land specified in Schedule 17) for the temporary diversion of vehicular traffic or the temporary diversion of public and private rights of way or private means of access where required in the exercise of powers under article 16 (permanent stopping up of streets, change of status, and extinguishment of private means of access) or article 19 (temporary closure of streets and extinguishment of private means of access), or where otherwise required to avoid prejudice to the use of land within the Order limits by land owners during construction of the authorised development.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) above, after the end of the period of 1 year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 17 unless and to the extent that it is authorised to do so by the acquisition of rights over land or the creation of new

(1) 1981 c. 66. Section 4 was amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

rights over land pursuant to article 32 (compulsory acquisition of rights and imposition of restrictive covenants); or

- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of 1 year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by 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 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must either acquire the land under paragraph (1)(a) or, unless otherwise agreed with the owners of the land, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, except that the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) restore the land to a condition better than the relevant land was in before temporary possession;
- (d) remove any ground strengthening works which have been placed on the land to facilitate construction, maintenance and operation of the authorised development;
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (f) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works.

(5) The undertaker 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 provisions of any power conferred by this article and, for the avoidance of doubt, this will include compensation in respect of any loss or damage further to any ground strengthening works within paragraph (4)(d) carried out by the undertaker in or on that land.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, will be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act⁽²⁾ (Compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring existing and new rights or imposing any restrictive covenants over any part of that land under article 32;
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 35 (acquisition of subsoil and airspace only); or
- (c) carrying out a survey of that land under article 27 (authority to survey and investigate the land).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory

(2) 2008 c. 29. Section 152 was amended by S.I. 2009/1307.

acquisition of land under this Order by virtue of section 125 of the 2008 Act (Application of compulsory acquisition provisions).

(11) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in paragraph (1).

(12) Nothing in this article affects any requirement for the consent of the Secretary of State to be provided for the change of use of a playing field under section 77 of the School Standards and Framework Act 1998.