
WELSH STATUTORY INSTRUMENTS

2017 No. 1027

The Network Rail (Summerway Overbridge) Order 2017

PART 3

LAND PROVISIONS

Temporary possession of land

4.—(1) Network Rail may, in connection with the carrying out of the authorised works, enter upon and take temporary possession of the land specified in columns (1) and (2) of the Schedule (land of which temporary possession may be taken) for the purposes specified in relation to that land in column (3) of that Schedule relating to the authorised works.

(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 after the end of the period of one year beginning with the date of completion of the authorised works.

(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 land, but Network Rail is not required to replace a building removed in connection with the carrying out of the authorised works.

(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 10 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(1) (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) Where Network Rail takes possession of land under this article, Network Rail is not required to acquire the land or any interest in it.

Application of Part 1 of the 1965 Act

5. Sections 1 (application of Part 1 and interpretation), 3 (acquisition by agreement in pursuance of compulsory purchase order) and 13 (refusal to give possession to acquiring authority) of the 1965 Act, in so far as not inconsistent with the provisions of this Order, apply to the temporary use of land

(1) 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.

under this Order to the same extent as they apply to a compulsory purchase to which the 1981 Act applies and as if this Order were a compulsory purchase order under that Act.

Suspension of private rights of way

6.—(1) Subject to paragraph (3), all private rights of way over land of which Network Rail takes temporary possession under this Order are suspended and unenforceable for as long as Network Rail remains in lawful possession of the land.

(2) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in the case of dispute, under Part 1 of the 1961 Act.

(3) Paragraph (1) has effect subject to—

- (a) any notice given by Network Rail before Network Rail takes temporary possession of the land that paragraph (1) does not apply to any right of way specified in the notice; and
- (b) any agreement which makes reference to this article (whether made before or after Network Rail takes temporary possession of the land and before or after the coming into force of this Order) between Network Rail and the person in or to whom the right of way in question is vested or belongs.

(4) If any such agreement as is mentioned in paragraph (3)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Time limit for exercise of powers of temporary possession

7.—(1) The powers conferred by article 4 (temporary possession of land) cease after the end of the period of 5 years beginning with the day on which this order comes into force, except that nothing in this article prevents Network Rail remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.