
Changes to legislation: There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, SCHEDULE 15. (See end of Document for details)

SCHEDULES

SCHEDULE 15

Section 13

TEMPORARY POSSESSION AND USE OF LAND

PART 1

TEMPORARY POSSESSION FOR CONSTRUCTION OF WORKS

Right to enter on and take possession of land

- 1 (1) The nominated undertaker may enter on and take possession of the land specified in the table in Schedule 16—
- (a) for the purpose specified in relation to the land in column (3) of that table in connection with the authorised works specified in column (4) of the table,
 - (b) for the purpose of constructing such works as are mentioned in column (5) of that table in relation to the land, or
 - (c) otherwise for Phase 2a purposes.
- (2) The nominated undertaker may (subject to paragraph 2(1)) enter on and take possession of any other land within the Act limits for Phase 2a purposes.
- (3) The reference in sub-paragraph (1)(a) to the authorised works specified in column (4) of the table in Schedule 16 includes a reference to any works which are necessary or expedient for the purposes of or in connection with those works.

Exceptions

- 2 (1) Paragraph 1(2) does not apply in relation to—
- (a) land which is subject to a restricted power of compulsory acquisition,
 - (b) land in respect of which a notice of entry has been served under section 11 of the Compulsory Purchase Act 1965 (as applied by section 4(3) to the acquisition of land under section 4(1)), other than in connection with the acquisition of rights or subsoil only or the imposition of a restrictive covenant, or
 - (c) land in respect of which a declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (as applied by section 4(4) to the acquisition of land under section 4(1)), other than in connection with the acquisition of rights or subsoil only or the imposition of a restrictive covenant.
- (2) The power under section 4(1) (power to acquire land compulsorily) is not exercisable in relation to land specified in the table in Schedule 16.
- (3) But sub-paragraph (2) does not apply in relation to land specified in that table to the extent (if any) that the land is subject to a restricted power of compulsory acquisition.

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- (4) For the purposes of this Schedule, land is subject to a restricted power of compulsory acquisition if the power under section 4(1) may be exercised in relation to the land only—
- (a) so as to acquire rights or impose restrictive covenants relating to the land (see section 5(2));
 - (b) so as to acquire the subsoil or under-surface of the land (ignoring the power by virtue of section 5(1)(b) to impose restrictive covenants over the land).

Powers exercisable on land of which temporary possession has been taken

- 3 (1) Where under paragraph 1(1) or (2) the nominated undertaker has entered upon and taken possession of land, the nominated undertaker may, for the purposes of or in connection with the construction of the works authorised by this Act—
- (a) remove any structure or vegetation from the land;
 - (b) construct such works as are mentioned in relation to the land in column (5) of the table in Schedule 16;
 - (c) construct temporary works (including the provision of means of access) and structures on the land;
 - (d) construct landscaping and other works on the land to mitigate any adverse effects of the construction, maintenance or operation of the works authorised by this Act.
- (2) The other works referred to in sub-paragraph (1)(d) include works involving the planting of trees and shrubs and the provision of replacement habitat for wild animals.
- (3) In this paragraph, “structure” includes any erection.

Procedure and compensation

- 4 (1) Not less than 28 days before entering upon and taking possession of land under paragraph 1(1) or (2), the nominated undertaker must give notice to the owners and occupiers of the land of its intention to do so.
- (2) The nominated undertaker may not, without the agreement of the owners of the land, remain in possession of land under paragraph 1(1) or (2) 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.
- (3) Sub-paragraph (2) does not apply, in the case of land mentioned in paragraph 1(2), if before the end of the one-year period either of the following powers has been exercised in relation to the land—
- (a) the power to serve a notice to treat under Part 1 of the Compulsory Purchase Act 1965 (as applied by section 4(3) of this Act to the acquisition of land under section 4(1));
 - (b) the power to execute a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (as applied by section 4(4) of this Act to the acquisition of land under section 4(1)).
- (4) The nominated undertaker must pay compensation to the owners and occupiers of land of which possession is taken under paragraph 1(1) or (2) for any loss which they may suffer by reason of the exercise in relation to the land of the power or powers under that paragraph.

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- (5) Any dispute as to a person's entitlement to compensation under sub-paragraph (4), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (6) Nothing in this paragraph affects any liability to pay compensation under section 10(2) of the Compulsory Purchase Act 1965 (as applied by section 4(3) to the acquisition of land under section 4(1)) or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (4).
- 5 (1) Before giving up possession of land of which possession has been taken under paragraph 1(1) or (2), the nominated undertaker must, in accordance with a scheme agreed with the owners of the land and the relevant planning authority, put the land into such condition as the scheme may provide.
- (2) If no scheme has been agreed for the purposes of this paragraph within 6 months of the date of completion mentioned in paragraph 4(2) in relation to the land, the scheme is to be such as may be determined by the appropriate Ministers after consulting the nominated undertaker, the owners of the land and the relevant planning authority.
- (3) Unless the owners of the land and the nominated undertaker otherwise agree, a scheme determined under sub-paragraph (2) must provide for land to be restored to its former condition.
- (4) Sub-paragraph (3) does not require land on which works referred to in paragraph 1(1)(b) or 3(1)(d) have been constructed to be restored to its former condition.
- (5) Unless the nominated undertaker otherwise agrees, a scheme determined under sub-paragraph (2) may not provide for the nominated undertaker to replace a structure removed under paragraph 3, other than a fence.
- (6) Where the appropriate Ministers ask the relevant planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (2), they may require the nominated undertaker to reimburse to the relevant planning authority any expenses which it reasonably incurs in meeting the request.
- (7) The duty under sub-paragraph (1) in relation to any land is owed separately to the owners of the land and to the relevant planning authority.
- (8) Where a scheme for the purposes of this paragraph provides for any step to be taken by the nominated undertaker before a specified date and that step has not been taken before that date, the relevant planning authority may—
- (a) enter the land concerned and take that step, and
 - (b) require the nominated undertaker to reimburse to it any expenses which it reasonably incurs in acting under paragraph (a).
- (9) In this paragraph—
- “appropriate Ministers” means the Secretary of State for [^{F1}Levelling Up, Housing and Communities] and the Secretary of State for Transport and, in relation to the carrying out of any function, means those Ministers acting jointly;
- “relevant planning authority” means the unitary authority or, in a non-unitary area, the district council in whose area the land is situated.

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Textual Amendments

- F1** Words in Sch. 15 para. 5(9) substituted (8.12.2021) by The Transfer of Functions (Secretary of State for Levelling Up, Housing and Communities) Order 2021 (S.I. 2021/1265), art. 1(2), Sch. 2 para. 27(b) (with art. 12)

PART 2

TEMPORARY POSSESSION FOR MAINTENANCE OF WORKS

Right to enter on and take possession of land

- 6 (1) At any time during the maintenance period relating to any of the scheduled works, the nominated undertaker may—
- (a) enter on and take possession of any land which is—
 - (i) within 20 metres from that work, and
 - (ii) within the Act limits,
 if possession of the land is reasonably required for the purposes of or in connection with maintaining the work or any ancillary works connected with it, and
 - (b) construct on the land such temporary works (including the provision of means of access) and structures as may be reasonably so required, unless the land is specified in the table in Schedule 16.
- (2) Sub-paragraph (1) does not authorise the nominated undertaker to take possession of—
- (a) a house, any other structure which is for the time being occupied, or a garden belonging to a house, or
 - (b) land which is subject to a restricted power of compulsory acquisition.
- (3) The nominated undertaker may only remain in possession of the land for so long as may be reasonably required to carry out the maintenance works for which possession of the land was taken.
- (4) In this paragraph—
- (a) “the maintenance period”, in relation to any work, means the period beginning with the date on which the work is completed and ending 5 years after the date on which it is brought into general use;
 - (b) “structure” includes any erection;
 - (c) the reference in sub-paragraph (1)(a) to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of any point on the surface below which the work is situated.

Procedure and compensation

- 7 (1) Not less than 28 days before entering upon and taking possession of land under paragraph 6, the nominated undertaker must give notice to the owners and occupiers of the land of its intention to do so.

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- (2) Before giving up possession of the land, the nominated undertaker must restore the land to the reasonable satisfaction of its owners.
- (3) The nominated undertaker must pay compensation to the owners and occupiers of the land for any loss which they may suffer by reason of the exercise in relation to the land of the powers under paragraph 6.
- (4) Any dispute as to a person's entitlement to compensation under sub-paragraph (3), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (5) Nothing in this paragraph affects any liability to pay compensation under section 10(2) of the Compulsory Purchase Act 1965 (as applied by section 4(3) of this Act to the acquisition of land under section 4(1)), or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (3).

PART 3

SUSPENSION OF RIGHTS AND ENFORCEMENT

Suspension of rights relating to land

- 8 (1) All private rights over land of which the nominated undertaker takes possession under paragraph 1(1) or (2) or 6 are suspended and unenforceable for as long as the nominated undertaker remains in lawful possession of the land.
- (2) The nominated undertaker may, in relation to a private right, direct—
 - (a) that sub-paragraph (1) does not apply to the right, or
 - (b) that sub-paragraph (1) applies to the right only to the extent specified in the direction.
- (3) In this paragraph, “private rights” include—
 - (a) private rights of way over land,
 - (b) rights of common,
 - (c) easements, liberties, privileges, rights or advantages annexed to land and adversely affecting other land, including any natural right to support, and
 - (d) restrictions as to the user of land arising under a contract.
- (4) Any person who suffers loss by reason of the suspension of a right under sub-paragraph (1) is entitled to be compensated by the nominated undertaker.
- (5) Any dispute as to a person's entitlement to compensation under sub-paragraph (4), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (6) This paragraph applies to a private right which is for the benefit of Crown land if the Crown authority consents (and consent may be subject to conditions).
- 9 (1) All general rights over land of which the nominated undertaker takes possession under paragraph 1(1) or (2) or 6 are suspended and unenforceable for as long as the nominated undertaker remains in lawful possession of the land.
- (2) The nominated undertaker may, in relation to a general right, direct—

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- (a) that sub-paragraph (1) does not apply to the right, or
 - (b) that sub-paragraph (1) applies to the right only to the extent specified in the direction.
- (3) In this paragraph, references to “general rights” over land are to—
- (a) rights to access land (however expressed) which are exercisable as a result of section 2(1) of the Countryside and Rights of Way Act 2000 or an enactment mentioned in section 15 of that Act,
 - (b) other public rights over land which are conferred by an enactment, and
 - (c) rights exercisable as a result of trusts, or incidents, to which a common, town or village green, open space or allotment is subject.

Enforcement

- 10 (1) Section 13 of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority) applies for the purposes of this Schedule as if—
- (a) references to the acquiring authority were to the nominated undertaker,
 - (b) references to compensation payable to the person refusing to give possession were to compensation payable under this Schedule, and
 - (c) in subsection (1), for “this Act” there were substituted “ Schedule 15 to the High Speed Rail (West Midlands - Crewe) Act 2021 ”.
- (2) In the case of Crown land, that section does not, by virtue of sub-paragraph (1), apply as against the Crown authority for that land.

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