

SCHEDULES

SCHEDULE 16

TEMPORARY POSSESSION AND USE OF LAND

PART 2

TEMPORARY POSSESSION FOR MAINTENANCE OF WORKS

Right to enter upon and take possession of land

- 7 (1) At any time during the maintenance period relating to any of the scheduled works, the nominated undertaker may—
- (a) enter upon 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 Part 4 of this Schedule.
- (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

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