

SCHEDULES

SCHEDULE 15

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.

Status: This is the original version (as it was originally enacted).

- (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.

Status: This is the original version (as it was originally enacted).

- (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 Housing, Communities and Local Government 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.