
STATUTORY INSTRUMENTS

2016 No. 297

The Thorpe Marsh Gas Pipeline Order 2016

PART 6

Powers of acquisition

Temporary use of land for carrying out the authorised development

29.—(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 (1) of Part A (land of which temporary possession may be taken) of Schedule 7 for the purposes specified in relation to that land in column (2) of that Schedule;
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct any works, temporary works (including the provision of means of access), security fencing, structures and buildings on that land;
- (d) use the land for the purposes of a construction working site with access to the construction working site in connection with the authorised development; and
- (e) construct or carry out any works for the purposes of the authorised development, or use the land, or carry out any mitigation works or operations required by the relevant planning authority as a condition to discharging any of the Requirements in Part 2 of Schedule 1.

(2) The undertaker may, for the purpose of obtaining access to construct the authorised development—

- (a) make temporary use, in common with other persons enjoying rights over that land, of access routes over the land specified in column (1) of Part B (land over which temporary access may be taken where others use the same) of Schedule 7; and
- (b) carry out any necessary works to improve those access routes (and for that purpose only take temporary possession of the area in which the work is to be carried out for the duration of that work).

(3) 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.

(4) The undertaker 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 relevant part of the authorised development unless the undertaker has, before 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.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any works have been constructed under paragraph (1)(e), if the owners and occupiers consent to the works remaining; or
- (c) remove any ground-strengthening works which have been placed in that land to facilitate the construction of the authorised development.

(6) 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.

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

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (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 (6).

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

- (a) acquiring new rights over or imposing restrictive covenants on any part of that land including the subsoil under article 23 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil (or rights in the subsoil) on that land under article 26 (acquisition of subsoil only).

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

(11) 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 acquisition of land or rights over land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 7.