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STATUTORY INSTRUMENTS

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**2016 No. 818**

**The North Wales Wind Farms Connection Order 2016**

**PART 5**

**POWERS OF ACQUISITION**

**Temporary use of land for carrying out the authorised development**

**27.**—(1) Subject to paragraphs (2) to (11), the undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
  - (i) so much of the land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any of the Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act (execution of declaration);
- (b) remove any electric line, electrical plant, buildings, structures, poles, means of enclosure, apparatus and vegetation from that land;
- (c) construct temporary works and permanent works (including the provision of means of access) and structures on that land and use that land as temporary laydown area, storage area and working area;
- (d) construct any works specified in relation to that land in column (3) of Schedule 8; and
- (e) carry out mitigation works required pursuant to the Requirements in Schedule 2.

(2) 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.

(3) 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 final commissioning of the authorised development unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under either paragraph (1)(a)(i) or (1)(a)(ii), remove all temporary and permanent works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any electric line, electrical plant, buildings, structures, poles and apparatus removed under this article; or

- (b) restore the land on which works have been carried out under paragraph (1)(d) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the Requirements in Schedule 2.
- (5) 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.
- (6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.
- (7) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) 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 (5).
- (8) Nothing in this article precludes the undertaker from—
  - (a) acquiring new rights or imposing restrictions on any part of the Order land under article 18 (compulsory acquisition of rights); or
  - (b) acquiring any right in the subsoil or of airspace over the Order land under article 25 (acquisition of subsoil or airspace only).
- (9) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire any interest in it.
- (10) 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 under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).
- (11) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 8.