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STATUTORY INSTRUMENTS

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**2016 No. 844**

**The Hornsea Two Offshore Wind Farm Order 2016**

**PART 5**

Powers of acquisition, etc.

**Temporary use of land for carrying out authorised project**

**26.**—(1) Each undertaker may, from time to time, alone or in common with the other undertaker, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
    - (i) the Order land set out in column (2) of Part 1 of Schedule 7 (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 project specified in column (4) of that Schedule;
    - (ii) the Order land set out in column (2) of Part 2 of Schedule 7 for the purpose specified in relation to that land in column (3) of that Schedule;
    - (iii) any of the land referred to in article 18 and Schedule 5 in respect of which (other than in connection with the acquisition of rights only) no notice of entry has been served under section 11 of the 1965 Act and no declaration has been made under section 4 of the 1981 Act;
  - (b) remove any buildings and vegetation from that land;
  - (c) construct temporary works (including the provision of means of access) and buildings on that land; and
  - (d) construct or carry out any works or operations specified in relation to that land in column (3) of Parts 1 and 2 of Schedule 7 or any other mitigation works or operations (including land drainage restoration works).
- (2) The undertaker may for the purpose of obtaining access to construct the authorised project—
- (a) make temporary use, in common with other persons enjoying rights over that land, of access routes over the land set out in Part 3 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) The undertaker may for the purpose of obtaining access to the compensation compounds—
- (a) make temporary use, in common with other persons enjoying rights over that land, of access routes over the land set out in Part 4 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).

(4) Not less than 14 days before entering on and taking temporary possession of or using land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(5) The undertaker must 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 1 year beginning with—

- (a) in the case of land referred to in paragraph (1)(a)(i), the date of completion of the construction, installation or implementation of the part of the authorised project specified in relation to that land in column (4) of Part 1 of Schedule 7;
- (b) in the case of land referred to in paragraph (1)(a)(ii), the date on which the compensation compound ceases to be required;
- (c) in the case of land referred to in paragraph (1)(a)(iii), the date of completion of the construction, installation or implementation of the work for which temporary possession of this land was taken 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.

(6) 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; or
- (b) restore land on which any works have been constructed under paragraph (1)(d).

(7) 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 any power conferred by this article.

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

(9) 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 project, other than loss or damage for which compensation is payable under paragraph (7).

(10) The undertaker may not under this Order compulsorily acquire the land referred to in paragraphs (1)(a)(i) and (ii), (2)(a) or (3)(a); and the undertaker may not acquire rights in or impose restrictive covenants over any part of that land unless it is set out in column (1) of Schedule 5.

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

(12) Section 13 of the 1965 Act<sup>(1)</sup> (refusal to give possession to acquiring authority) applies to the temporary use of land under 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.

(13) The powers in this article may be exercised by each undertaker in relation to the same land at the same time as the other undertaker or at different times, and may be exercised more than once.

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(1) Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).