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STATUTORY INSTRUMENTS

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**2017 No. 1329**

**The Boston Barrier Order 2017**

**PART 2**

**WORKS PROVISIONS**

*Supplementary powers and provisions*

**Power to survey and investigate land, etc.**

**23.**—(1) The Agency may for the purposes of this Order and in respect of land lying within the Order limits—

- (a) survey or investigate any such land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the Agency thinks fit on such land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) take steps to protect or remove any flora or fauna on such land where the flora or fauna may be affected by the carrying on of the authorised works;
- (e) place on, leave on and remove from such land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (d); and
- (f) enter on such land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (e).

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Agency—

- (a) must, if so required, before or after entering the land produce written evidence of authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make trial holes.

(4) No trial holes are to be made under this article—

- (a) in a carriageway or footway without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The Agency must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Boston Barrier Order 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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(6) If either a highway authority which receives an application for consent under paragraph (4) (a) or a street authority which receives an application for consent under paragraph (4)(b) fails to notify the Agency of its decision within 14 days of receiving the application for consent under paragraph (4), that authority is deemed to have granted consent.

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**Commencement Information**

**II** Art. 23 in force at 2.1.2018, see [art. 1](#)

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Order excluded in part by [S.I. 2023/778 art. 41](#)