
STATUTORY INSTRUMENTS

2022 No. 1406

**The Network Rail (Cambridge South
Infrastructure Enhancements) Order 2022**

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for construction of works

25.—(1) Network Rail may, in connection with the carrying out of the authorised works—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 4 (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 authorised works specified in column (4) of that Schedule; and
 - (ii) subject to paragraph (10), any other Order land in respect of which no notice of entry has been served under section 11(1) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4(2) (execution of declaration) 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;
- (d) construct any permanent works—
 - (i) in relation to the land specified in paragraph 1(a)(i), specified in column (3) of Schedule 4;
 - (ii) in relation to the land specified in paragraph 1(a)(ii), comprising part of the authorised works; and
- (e) construct any mitigation works on that land.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(2) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(3) Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (4) of Schedule 4; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of this land was taken unless Network Rail 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.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but Network Rail 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)(d) or (1)(e); or
- (c) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised works.

(5) Network Rail 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 powers 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 as if it were a dispute under Part 1 of the 1961 Act.

(7) Without affecting article 43 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(3) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

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

(9) Section 13(4) (refusal to give possession to acquiring authority) of the 1965 Act 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 article 20 (application of Part 1 of the 1965 Act).

(10) Paragraph (1)(a)(ii) does not authorise Network Rail to take temporary possession of any land which it is not authorised to acquire under article 19 (power to acquire land) or any land specified in Schedule 3 (land in which only new rights etc., may be acquired).

Temporary use of land for maintenance works

26.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, Network Rail may—

- (a) enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining the work or any ancillary works connected with it; and

(3) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(4) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.
- (2) Paragraph (1) does not authorise Network Rail to take temporary possession of—
 - (a) any house or garden belonging to a house;
 - (b) any building (other than a house) if it is for the time being occupied; or
 - (c) any land listed in Schedule 3 (land in which only new rights etc., may be acquired) or Schedule 4 (land of which temporary possession may be taken).
- (3) Not less than 28 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.
- (4) Network Rail may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of works for which possession of the land was taken.
- (5) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) Network Rail 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 powers 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 as if it were a dispute under Part 1 of the 1961 Act.
- (8) Without affecting article 43 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).
- (9) Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.
- (10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act 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 article 20 (application of Part 1 of the 1965 Act).
- (11) In this article "the maintenance period" in relation to a scheduled work means the period of 5 years beginning with the date on which the work is opened for use.

Temporary use of land for access

- 27.—(1) Network Rail may use any land specified in Schedule 4 (land of which temporary possession may be taken) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in connection with the construction of the authorised works.
- (2) The power under paragraph (1) is exercisable on giving at least 7 days' notice (or, where access is urgently required, such notice as is reasonably practicable) to the owners and occupiers of the land.
- (3) Paragraph (2) does not require notice to be given in relation to land where notice under that paragraph has already been given in relation to that land.
- (4) Network Rail must pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.
- (5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of such compensation, shall be determined as if it were a dispute under Part 1 of the 1961 Act.

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(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act 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 article 20 (application of Part 1 of the 1965 Act).