
STATUTORY INSTRUMENTS

2022 No. 299

The Bridgwater Tidal Barrier Order 2022

PART 4

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary possession of land for construction purposes

37.—(1) Subject to paragraph (2), the Agency may, in connection with the carrying out of the authorised works—

(a) enter upon and take temporary possession of—

(i) the land specified in columns (1) and (2) of Schedule 6 (land of which temporary possession only may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of those works) so specified in column (3) of that Schedule, and

(ii) any other land within Order limits in respect of which no notice of entry has been served under section 11 of the 1965 Act⁽¹⁾ (powers of entry) (other than in connection with the acquisition of new rights only) or no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 Act⁽²⁾ (execution of declaration);

(b) remove any buildings, apparatus and vegetation from that land;

(c) construct temporary works (including the provision of means of access) and buildings on the land;

(d) construct any scheduled works in relation to that land and any other works that are required.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the Agency must serve notice of the intended entry on the owners and occupiers of the land.

(3) The Agency 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 columns (1) and (2) of Schedule 6 (land of which temporary possession only may be taken), after the end of the period of 2 years beginning with the date of completion of the works specified in relation to that land in column (3) of that Schedule;

(b) in the case of any other land within Order limits, after the end of the period of 2 years beginning with the date of completion of the works for which temporary possession of

(1) Section 11 was amended by Schedule 4 to the Acquisition of Land Act 1981 (c. 67), by paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), by section 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraphs 2 and 3 of Schedule 16 to, the Housing and Planning Act 2016, 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.

the land was taken unless the Agency 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 Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Subject to paragraph (5), before giving up possession of land of which temporary possession has been taken under this article, the Agency must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(5) The Agency is not required to—

- (a) replace a building removed under this article;
- (b) restore land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised works;
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised works;
- (e) reinstate land on which Work Nos. 5A, 5B, 5C, 5D, 5E, 5F or 5G are executed.

(6) The Agency 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 under Part 1 of the 1961 Act.

(8) Without affecting article 69 (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) The power to acquire rights in land conferred by article 31 (power to acquire rights in land) does not apply in relation to land referred to in sub-paragraph (1)(a)(i) except that the Agency is not precluded from acquiring rights in any part of the subsoil or airspace of that land under article 35 (power to acquire subsoil or air-space).

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

(11) Section 13 of the 1965 Act⁽³⁾ (refusal to give possession to acquiring authority) applies to the temporary possession of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 33(1) (application of Part 1 of the 1965 Act).

Temporary possession of land for maintenance of works

38.—(1) Subject to paragraphs (2) and (3), at any time during the maintenance period relating to any of the scheduled works, the Agency may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (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 the Agency to take temporary possession of—

- (a) any house or garden belonging to a house;

(3) Section 13 was amended by sections 62(3) and 139(4) to (9) of, and paragraphs 27 and 28 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (b) any building (other than a house) if it is for the time being occupied.
- (3) Not less than 28 days before entering upon and taking temporary possession of land under this article the Agency must serve notice of the intended entry on the owners and occupiers of the land.
- (4) The Agency may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance 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, the Agency must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) The Agency 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 under Part 1 of the 1961 Act.
- (8) Without affecting article 69 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection) 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 (7) of this article.
- (9) Where the Agency takes possession of land under this article, the Agency is not required to acquire the land or any interest in it.
- (10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary possession of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 33 (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.