
STATUTORY INSTRUMENTS

2024 No. 436

The HyNet Carbon Dioxide Pipeline Order 2024

PART 5

Powers of Acquisition

Temporary use of land for carrying out the authorised development

34.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 25 (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Part 1 of Schedule 7 (land of which only 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;
 - (ii) the land specified in columns (1) and (2) of Part 2 Schedule 7 (land of which only temporary possession for access may be taken) for the purposes of taking access to and from the authorised development only; and
 - (iii) any other Order land in respect of which no notice of entry has been served under section 11 (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 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any permanent works specified in relation to that land in column (4) of Part 1 of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development;
- (f) construct any works, or use the land, as specified in relation to that land in column 3 of Parts 1 and 2 of Schedule 7, or any mitigation works;
- (g) construct such works on that land referred to in sub-paragraph (a) as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (h) carry out mitigation works required pursuant to the requirements in Schedule 2.

(2) Not less than 3 months 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 and explain the purpose for which entry is taken in respect of land specified under paragraph (1) (a)(iii).

(3) The undertaker must not, remain in possession of the land under this article for longer than is reasonably necessary and in any event, 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) and (ii), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Parts 1 and 2 of Schedule 7 (land of which only temporary possession may be taken); or
- (b) in the case of any land referred to in paragraph (1)(a)(iii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by 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 in relation to that land.

(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 otherwise acquired the land or rights over land subject to temporary possession, 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, or structure removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to streets works)
- (d) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1); or
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(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 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 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act 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) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) and (ii) except that the undertaker is not to be precluded from acquiring new rights over any part of that land under article 26 (compulsory acquisition of rights and restrictive covenants).

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

(10) Section 13(1) (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 section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 24 (compulsory acquisition of land) or article 26 (compulsory acquisition of rights and restrictive covenants).