
STATUTORY INSTRUMENTS

2024 No. 70

**The Drax Power Station Bioenergy with Carbon
Capture and Storage Extension Order 2024**

PART 5

POWERS OF ACQUISITION

Temporary use of land for constructing the authorised development

25.—(1) The undertaker may, in connection with the construction of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of the table in Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of the table; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) and no declaration has been made under section 4 of the 1981 Act (execution of declaration);
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works, haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;
- (e) construct any works, on that land as are mentioned in Schedule 1 (authorised development); and
- (f) carry out mitigation works required under the requirements in Schedule 2 (requirements).

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 14 days 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.

(4) The undertaker must 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 later of the date of Unit 1 full commissioning and the date of Unit 2 full commissioning; 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 later of the date of Unit 1 full commissioning and the date of Unit 2 full

commissioning unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired or leased the land.

(5) 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 in relation to the land or has otherwise acquired the land or rights over land subject to temporary possession, the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line 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 4 (streets subject to street works); or
- (d) restore the land on which any works have been carried out under paragraph (1)(e) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

(6) 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 provisions of any power 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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) 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).

(9) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

(10) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Part 1 of Schedule 8 (land in which only new rights etc. may be acquired or in which rights may be extinguished) under article 19 (compulsory acquisition of rights); or
- (b) acquiring rights in the subsoil of that land under article 22 (acquisition of subsoil only) or any part of the subsoil of or airspace over that land under article 24 (rights under or over streets).

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

(12) 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 section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.