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WELSH STATUTORY INSTRUMENTS

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**2021 No. 1478**

**The Morlais Demonstration Zone Order 2021**

**PART 3**

**Acquisition and Possession of Land**

*Temporary Possession of Land*

**Temporary use of land for construction of works**

**28.**—(1) The undertaker 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 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
  - (ii) any other land within the onshore Order limits 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 executed 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 works required as mentioned in article 3 (power to construct maintain repower and decommission works); and
- (e) construct any mitigation works on that land.

(2) Not less than 28 days before entering upon 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.

(3) The undertaker 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 any land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised works specified in relation to that land in column (4) of Schedule 9; or
- (b) in the case of any 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 works or other purpose for which temporary possession of the land was taken unless the undertaker has, by the end of that

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(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 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 (c. 22).

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) 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 removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraphs (1)(d) or (1)(e);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised works; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised works.

(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 under Part 1 of the 1961 Act.

(7) Without affecting article 48 (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 the undertaker takes possession of land under this article, it 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 acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

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(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), 139 and 146 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).