
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 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;
- (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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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.