
WELSH STATUTORY INSTRUMENTS

2004 No. 3054

The Scarweather Sands Offshore Wind Farm Order 2004

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

18. The undertaker may acquire compulsorily so much of the land shown numbered 4 on the land plans and described in the book of reference as may be required for the purposes of Work No. 3 and it may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its electricity undertaking.

Application of Part I of the Compulsory Purchase Act 1965

19.—(1) Part I of the 1965 Act, insofar as not modified by, or inconsistent with, the provisions of this Order, applies to the acquisition of land under this Order as—

- (a) it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, has effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provisions as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers powers to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice), for the reference to 14 days' notice, there were substituted in—
 - (i) a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month; or
 - (ii) any other case, a reference to notice of 3 months.

Power to acquire new rights

20.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in article 18 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) The undertaker may compulsorily acquire such easements or other rights over the land shown numbered 1 to 3, 5 to 9 and 11 on the land plans and described in the book of reference (“the relevant land”) as it may consider necessary for and in connection with the construction, use, operation and maintenance of Works No. 2, 2A, 4 and 5.

(3) The undertaker may compulsorily acquire such easements or rights to use the streets shown numbered 12 to 16 on the land plans and described in the book of reference as it may consider necessary in order to obtain access for the purpose of constructing, using, operating and maintaining the authorised works.

(4) The easements or rights referred to in paragraph (3) are rights to use the streets referred to in that paragraph in common with any other persons entitled to use the streets; and nothing in this article is to be taken as conferring a right to interfere with the use of the streets by other persons.

(5) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 3 to this Order), where the undertaker acquires a right over land under this article, the undertaker is not required to acquire a greater interest in it.

(6) Schedule 3 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Temporary possession of land

Temporary use of land for construction of works

21.—(1) The undertaker may, in connection with the carrying out of the authorised works—

- (a) enter upon, and take temporary possession of, the land shown numbered 4 on the land plans and described in the book of reference as may be required in connection with the construction of the authorised works;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the 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 after the end of the period of one year beginning with the date of completion of the authorised works.

(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 replace a building removed under this article.

(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 I of the 1961 Act.

(7) Without prejudice to article 36, nothing in this article shall affect any liability to pay compensation under section 10(2) 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) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to any land of which temporary possession is taken under paragraph (1), except that the undertaker is not precluded from acquiring new rights over any part of that land under article 21.

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

(10) In this article, “building” (“*adeilad*”) includes structure or any other erection.

Compensation

Disregard of certain interests and improvements

22.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the Tribunal is not to take into account any—

- (a) interest in land; or
- (b) enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the Tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1), “relevant land” (“*tir perthnasol*”) means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Extinction or suspension of private rights of way

23.—(1) Subject to paragraph (2), all private rights of way over land subject to compulsory acquisition under article 18 are extinguished—

- (a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act, whichever is sooner.

(2) Paragraph (1) does not apply to any private rights of way over Heol Caer Bont.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990(2) (extinguishment of rights of statutory undertakers etc.).

Time limit for exercise of powers of acquisition

24.—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 21 to enter upon and take temporary possession of land, cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) 1990 c. 8.

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

(2) Paragraph (1) does not prevent the undertaker remaining in possession of land in accordance with article 21 after the end of that period, if the land was entered and possession of it was taken before the end of that period.