
STATUTORY INSTRUMENTS

2014 No. 2441

The Clocaenog Forest Wind Farm Order 2014

PART 3

Powers of acquisition

Compulsory acquisition of land and rights

20. Subject to article 23 (compulsory acquisition of rights) and article 33 (Crown rights) the undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.

Commencement Information

I1 Art. 20 in force at 2.10.2014, see [art. 1](#)

Time limit for exercise of authority to acquire land compulsorily

- 21.** After the end of the period of 5 years beginning on the day on which this Order is made—
- (a) no notice to treat shall be served under Part 1 of the 1965 Act; and
 - (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 25 (application of the Compulsory Purchase (Vesting Declarations) Act 1981(1)).

Commencement Information

I2 Art. 21 in force at 2.10.2014, see [art. 1](#)

Application and modification of legislative provisions

22.—(1) Subject to the modifications set out in paragraph (2), for the purposes of Schedule 2 to the 1981 Act, Parts 1, 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981(2) (minerals) apply to the Order land as if this Order were a compulsory purchase order made under Part 1 of that Act.

- (2) The modifications are—
- (a) paragraph 8(3) is not incorporated;
 - (b) for “the acquiring authority” substitute “the undertaker”; and

(1) [1981 c.66](#). Sections 2 and 116 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 ([c.11](#)). There are other amendments to the 1981 Act which are not relevant to this Order.

(2) [1981 c.67](#). Sub-paragraph (5) of paragraph 1 of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 ([c.21](#)) and paragraph 8 of Part 3 of Schedule was amended by section 46 of the Criminal Justice Act 1982 ([c.48](#)). There are other amendments to the 1981 Act which are not relevant to this Order.

(c) in paragraph 1(1) after “compulsory purchase order” insert “or a development consent order”.

(3) In this article “mines” has the same meaning as in paragraph 1 of Part 1 of Schedule 2 to the Acquisition of Land Act 1981.

Commencement Information

I3 Art. 22 in force at 2.10.2014, see [art. 1](#)

Compulsory acquisition of rights

23.—(1) The undertaker may acquire compulsorily new rights over the Order land specified in column (1) of Part 1 of Schedule 6 (Land subject to acquisition of new rights and interference with private rights), by creating them. The undertaker’s powers of compulsory acquisition are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in column (2) of Part 1 of that Schedule.

(2) The undertaker may interfere with such private rights as are specified in column (2) of Part 2 of that Schedule in relation to the land specified in column (1) of Part 2 of that Schedule.

(3) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights)) where the undertaker acquires a right over the Order land under paragraph (1) the undertaker may not be required to acquire a greater interest in that land.

(4) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) 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 the Order land by the creation of a new right.

Commencement Information

I4 Art. 23 in force at 2.10.2014, see [art. 1](#)

Private rights

24.—(1) From the date of entry by the undertaker onto any part of the Order land for the purposes of exercising any power under the Order, the private rights over the Order land referred to in paragraph (7) are subject to the provisions of this article.

(2) All private rights over land of which the undertaker takes temporary possession for construction purposes are suspended and unenforceable for so long as the undertaker remains in occupation of that land.

(3) Any person who suffers loss by the suspension of any private right under this article shall be entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc) applies.

(5) Paragraph (2) has effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the Order land or the acquisition of rights over or affecting the Order land,

- (ii) the undertaker's taking temporary possession of it,
that any or all of those paragraphs may not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (6) If any such agreement as is referred to in paragraph (5)(b)—
 - (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(7) Reference in this article to private rights over land means the private rights specified in column (2) of Part 2 of Schedule 6 to this Order in relation to the lands numbered 2, 3, 4, 5, 6, 7 and 8 on the land plan and includes references to any trusts or incidents to which the land is subject.

Commencement Information

I5 Art. 24 in force at 2.10.2014, see [art. 1](#)

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

25.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(3) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and “and published” is inserted after “given”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or

(3) [1981 c. 66](#). Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act [1990 \(c. 11\)](#). Section 15 was amended by sections 56 and 321(1) of and Schedules 8 and 16 to, the Housing and Regeneration Act [2008 \(c. 17\)](#). Paragraph 1 of Schedule 2 was amended by section 76 of, and Parr 2 of Schedule 9 to, the Housing Act [1988 \(c. 50\)](#); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act [1993 \(c. 28\)](#); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act [1984 \(c. 51\)](#). There are other amendments to the 1981 Act which are not relevant to this Order.

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(b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) is omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” is omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 of the 2008 Act.

Commencement Information

I6 Art. 25 in force at 2.10.2014, see [art. 1](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [art. 36\(1A\)](#) inserted by [S.I. 2017/1197 art. 4\(2\)](#)