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STATUTORY INSTRUMENTS

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**2016 No. 880**

The Triton Knoll Electrical System Order 2016

PART 5

Powers of acquisition

**Temporary use of land for carrying out authorised project**

- 24.—(1) The undertaker may, in connection with the carrying out of the authorised project,—
- (a) enter on and take temporary possession of—
    - (i) the land specified in column (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised project specified in column (4) of that Schedule; 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) (other than in connection with the acquisition of rights or restrictive covenants only) and no declaration has been made under section 4 of the 1981 Act;
  - (b) remove any buildings and vegetation from that land;
  - (c) construct any permanent or temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
  - (d) use the land for the purposes of a working site with access in connection with the authorised project; and
  - (e) construct or carry out any works (including mitigation works or operations) or use the land for the purposes of the authorised project.
- (2) 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.
- (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 land specified in paragraph (1)(a)(i) above, after the end of the period of 1 year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 7; or
  - (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of 1 year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, before the end of that 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 or has otherwise acquired the land subject to temporary possession.
- (4) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), unless otherwise agreed by the owners of the land, the undertaker must 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 a building removed under this article;
- (b) remove or reposition any apparatus belonging to statutory undertakers or any necessary mitigation works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, the undertaker must either acquire the land referred to in paragraph (3)(b) or remove all 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.

(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 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, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) (but the undertaker is not precluded from carrying out a survey of that land under article 13 (authority to survey and investigate land)).

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

(11) Section 13 of the 1965 Act(1) (refusal to give possession to acquiring authority) 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 of the 2008 Act (application of compulsory acquisition provisions).

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(1) Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).