
STATUTORY INSTRUMENTS

2023 No. 834

**The A303 (Amesbury to Berwick Down)
Development Consent Order 2023**

PART 3

POWERS OF ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of rights

22.—(1) Subject to the following paragraphs of this article, the undertaker may acquire such rights over the Order land or impose such restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) The powers of paragraph (1) may be exercised by a statutory undertaker or by an owner or occupier of land identified in column (4) of the table in Part 3 of Schedule 3 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to this Order, instead of by the undertaker in any case where the undertaker has given its prior consent to that in writing, and that consent may be given subject to terms and conditions.

(3) Where in consequence of paragraph (2), a statutory undertaker or an owner or occupier of land exercises the powers in paragraph (1) in place of the undertaker, except in relation to the payment of compensation the liability for which must remain with the undertaker, the statutory undertaker or the owner or occupier of land, as the case may be, is to be treated for the purposes of this Order, and by any person with an interest in the land affected, as being the undertaker in relation to the acquisition of the rights and the imposition of the restrictive covenants in question.

(4) In the case of the Order land specified in columns (1) and (2) of Schedule 4 (land in which only new rights etc., may be acquired) the undertaker's powers of compulsory acquisition under paragraph (1) are limited to the acquisition of such wayleaves, easements, new rights over the land or the imposition of such restrictive covenants as the undertaker may require for or in connection with the authorised development for the purposes specified in column (3) of Schedule 4 in relation to that land.

(5) The power under paragraph (1) to acquire the rights and to impose the restrictive covenants described in Schedule 4 for the benefit of statutory undertakers or for the benefit of any other person—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 4 as may be required for the benefit of any other statutory undertaker or any other person; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same

land in accordance with Schedule 4 as are required for the benefit of any other statutory undertaker or any other person.

(6) Subject to section 8(1) (other provisions as to divided land) of, and Schedule 2A(2) (counter-notice requiring purchase of land not in notice to treat) to, the 1965 Act (as substituted by paragraph 5(8) of Schedule 5 (modification of compensation and compulsory purchase enactments for the creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(7) Schedule 5 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(8) For the purposes of this article “statutory undertaker” includes Esso.

(1) Section 8 was amended by paragraphs 1 and 2 of Schedule 17 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.
(2) Schedule 2A was inserted by paragraphs 1 and 3 of Schedule 17 to the Housing and Planning Act 2016.