
STATUTORY INSTRUMENTS

2024 No. 393

The National Grid (Yorkshire Green Energy
Enablement Project) Development Consent Order 2024

PART 4

SUPPLEMENTAL POWERS

Protective work to land, buildings, structures, apparatus or equipment

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the land, building, structure, apparatus or equipment of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey—

- (a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and
- (b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to land, building, structure, apparatus or equipment the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the land, building, structure, apparatus or equipment and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to land, buildings, structures, apparatus or equipment;
- (b) a right under paragraph (2) to enter land, building, structure, apparatus or equipment and land within its curtilage;

- (c) a right under paragraph (3)(a) to enter any land, building, structure, apparatus or equipment and land within its curtilage; or
- (d) a right under paragraph (3)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the land, building, structure, apparatus, equipment or curtilage land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the land, building, structure, apparatus, equipment or curtilage land to be referred to arbitration under article 52 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any of the land, building, structure, apparatus, equipment or curtilage land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to the land, building, structure, apparatus or equipment; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development constructed in the vicinity of the land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Without affecting article 31 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(1) of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) Section 13(2) (refusal to give possession to acquiring authority) of the 1965 Act applies to entry onto, or possession 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(3) (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to land, building, structure, apparatus or equipment means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure, apparatus or equipment by the construction, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the land, building, structure, apparatus or equipment by the construction, maintenance or use of the authorised development.

(1) As amended by Schedule 1, paragraph 293 of [S.I. 2009/1307](#).

(2) As amended by sections 62(3) and 139(4) to (9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#).

(3) As amended by section 190 of, and paragraph 17 of Schedule 16 to, the [Housing and Planning Act 2016 \(c. 22\)](#).

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