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STATUTORY INSTRUMENTS

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**2005 No. 1794**

**The Midland Metro (Birmingham City  
Centre Extension, etc.) Order 2005**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession of land*

**Temporary use of land for construction of works**

- 30.**—(1) The Executive may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of—
    - (i) any of the land in the City specified in column (1) of Schedule 5 to this Order for the purpose specified in relation to that land in column (2) of that Schedule relating to the authorised works specified in column (3) of that Schedule, and
    - (ii) any of the relevant land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;
  - (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 Executive shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The Executive 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 any land specified in column (1) of Schedule 5 to this Order, after the end of the period of one year beginning with the date of completion of the work or works specified in relation to that land in column (3) of Schedule 5 to this Order; or
  - (b) in the case of the relevant land, after the end of the period of one year beginning with the date of completion of the work or works for which temporary possession of the land was taken unless the Executive 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 Compulsory Purchase (Vesting Declarations) Act 1981.
- (4) Before giving up possession of land of which temporary possession has been taken under this article, the Executive shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Executive shall not be required to replace a building removed under this article.

(5) The Executive shall 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, shall be determined under Part I of the 1961 Act.

(7) Without prejudice to article 50, 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) Where the Executive takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(9) Paragraph (1)(a)(ii) shall not authorise the Executive to take temporary possession of—

- (a) any dwelling house or garden belonging to a dwelling house; or
- (b) any building (other than a dwelling house) if it is for the time being occupied.

(10) In this article—

“building” includes any structure or erection; and

“the relevant land” means any land within the Order limits other than—

- (a) the land specified in column (1) of Part 2 of Schedule 2 to this Order;
- (b) the land specified in column (1) of Schedule 5 to this Order; and
- (c) the land shown numbered 597 to 600 and 604 on the land plans.

### **Temporary use of land for maintenance of works**

**31.—**(1) At any time during the maintenance period relating to any scheduled works, the Executive may—

- (a) enter upon and take temporary possession of any land within the Order limits and lying within 20 metres from those works if such possession is reasonably required for the purpose of, or in connection with, maintaining the works or any ancillary works connected with them;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise the Executive to take temporary possession of—

- (a) any dwelling house or garden belonging to a dwelling house;
- (b) any building (other than a dwelling house) if it is for the time being occupied; or
- (c) any land specified in column (1) of Part 2 of Schedule 2 to this Order (but without prejudice to the power to acquire rights pursuant to article 28(2) in relation to that land).

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the Executive shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The Executive may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken and restore the land to the reasonable satisfaction of the owners of the land.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the Executive shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The Executive shall 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, shall be determined under Part I of the 1961 Act.

(8) Without prejudice to article 50, 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 (6).

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

(10) The Executive may not, in the exercise of the powers of this article, enter—

- (a) the land specified in column (1) of Part 2 of Schedule 2 to this Order;
- (b) the land shown numbered 597 to 600 and 604 on the land plans.

(11) In this article—

- (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use;
- (b) “building” includes structure or any other erection; and
- (c) any reference to land within a specified distance of a work includes, in the case of work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

### **Temporary use of land for carrying out of accommodation and mitigation works**

**32.**—(1) The Executive may, in relation to any of the land shown numbered 596 to 600 and 604 on the land plans, enter upon and take temporary possession of the land and carry out any such works with respect to it as are referred to in article 6(3)(f) and (g), including the alteration of any building on the land (in this article referred to as “the accommodation works”).

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the Executive shall serve notice of the intended entry on the owners and occupiers of the land, together with a specification and description of the accommodation works that it intends to carry out on the land.

(3) Any person on whom a notice has been served under paragraph (2) may, by serving a counter notice within the period of 21 days beginning with the day on which the notice was served on him, require the question whether the accommodation works should be carried out to be referred to arbitration under article 53.

(4) The Executive may not remain in possession of any land under this article after the completion of the accommodation works for which possession was taken; but it may upon not less than 14 days' notice served on the occupier of the land, enter thereafter for the purpose of inspecting and remedying any defects in the accommodation works.

(5) The Executive shall pay compensation to the owners and occupiers of any 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) Where the carrying out of the accommodation works has mitigated the amount of any loss or damage arising from the carrying out of any of the other works authorised by this Order, that mitigation of loss or damage shall be taken into account in calculating the compensation (if any) payable under this Order or any other enactment in respect of that loss or damage.

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

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(7) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

(8) Where the Executive takes possession of land under this article, it shall not be required to acquire the land or any interest in it.