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STATUTORY INSTRUMENTS

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**2009 No. 1300**

**The Nottingham Express Transit System Order 2009**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession of land*

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

**37.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, the promoter may—

- (a) enter upon and take temporary possession of any land within the Order limits reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (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 promoter to take temporary possession of—

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

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

(4) The promoter 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.

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

(6) The promoter 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 1 of the 1961 Act.

(8) Without affecting article 81 (no double recovery), 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 promoter takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) The powers of this article shall not be exercised in relation to any street without the consent of the street authority, which shall not be unreasonably withheld.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Nottingham Express Transit System Order 2009, Section 37. (See end of Document for details)*

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(11) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 30(1) (application of Part 1 of the Compulsory Purchase Act 1965).

(12) In this article “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 public use.

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**Commencement Information**

**II** Art. 37 in force at 9.6.2009, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Nottingham Express Transit System Order 2009, Section 37.