
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Midland Metro (Wednesbury to Brierley Hill
and Miscellaneous Amendments) Order 2005

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for maintenance of works

35.—(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 columns (1) and (2) of Part 2 of Schedule 2 to this Order (but without prejudice to the power to acquire rights pursuant to article 32(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 54, 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 columns (1) and (2) of Part 2 of Schedule 2 to this Order;
- (b) the land in Dudley shown numbered 560 to 565, 620, 729 and 730 on the land plans;
- (c) the land in Sandwell shown numbered 503, 535 to 537, 545, 546, 631, 704 and 705 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.