
STATUTORY INSTRUMENTS

2005 No. 1137

The Margate Pier (Turner Centre) Order 2005

PART 3

TEMPORARY POSSESSION OF LAND

Temporary use of land for construction of works

12.—(1) The Council may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 3 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule;
- (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 Council shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The Council may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 3 to this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Council shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Council shall not be required to replace a building removed under this article.

(5) The Council 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 Act of 1961.

(7) Without prejudice to article 20, nothing in this article shall affect any liability to pay compensation under section 10(2) of the Act of 1965 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 Council takes possession of land under this article, they shall not be required to acquire the land or any interest in it.

(9) In this article "building" includes any structure or other erection.

Temporary use of land for maintenance of works

13.—(1) At any time during the maintenance period relating to any of the scheduled works, the Council may—

- (a) enter upon and take temporary possession of any land within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it; 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 Council 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 Council shall serve notice of the intended entry on the owners and occupiers of the land.
- (4) The Council 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 Council shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) The Council 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 Act of 1961.
- (8) Without prejudice to article 20, nothing in this article shall affect any liability to pay compensation under section 10(2) of the Act of 1965 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 Council takes possession of land under this article, they shall not be required to acquire the land or any interest in it.
- (10) 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 public use;
 - (b) “building” includes any structure or other erection; and
 - (c) any reference to land within a specified distance of a work includes, in the case of a 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.

Suspension of private rights of way

14.—(1) All private rights of way over land of which the Council take temporary possession under this Order shall be suspended and unenforceable for as long as the Council remain in lawful possession of the land.

(2) Any person who suffers loss by the suspension of any right under this article shall be entitled to compensation to be determined, in default of agreement, under and in accordance with the Act of 1961.

Time limit for exercise of powers of acquisition

15. The power conferred by article 12 to enter upon and take temporary possession of land shall cease at the end of the period of 3 years beginning with the day on which this Order comes into force.