
STATUTORY INSTRUMENTS

2005 No. 120

The Merseytram (Liverpool City Centre to Kirkby) Order 2005

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, Merseytravel may—

- (a) enter upon and take temporary possession of any land within the Order limits and lying 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 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 Merseytravel 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 Merseytravel shall serve notice of the intended entry on the owners and occupiers of the land.

(4) Merseytravel 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, Merseytravel shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) Merseytravel 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 76, 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 Merseytravel takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

Status: This is the original version (as it was originally made).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

(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.

(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).

(12) In this article—

- (a) “building” includes any structure or other erection;
- (b) “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; 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.