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STATUTORY INSTRUMENTS

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**2009 No. 2728**

**The Network Rail (Reading) (Land Acquisition) Order 2009**

**PART 2**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession or use of land*

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

**12.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, Network Rail may enter upon and take temporary possession of any land within the limits of land to be acquired or used if such possession is reasonably required for the purpose of maintaining the authorised works or any ancillary works connected with them.

(2) Paragraph (1) shall not authorise Network Rail to take temporary possession of—

- (a) any land specified in Schedule 3 (land in which only new rights may be acquired) or Schedule 5 (land over which temporary rights of access may be exercised);
- (b) any house or garden belonging to a house; or
- (c) 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 Network Rail shall serve notice of the intended entry on the owners and occupiers of the land.

(4) Network Rail may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of 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, Network Rail shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) Network Rail 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 prejudice to article 22 (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 Network Rail takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

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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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(10) 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 4(1) (application of Part 1 of the Compulsory Purchase Act 1965).

(11) In this article “the maintenance period”, in relation to an authorised work, means the period of 5 years beginning with the date on which the work is opened for use.