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STATUTORY INSTRUMENTS

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**2014 No. 1821**

**The Felixstowe Branch Line (Land Acquisition) Order 2014**

**PART 2**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession of land*

**Temporary use of land for construction of works**

- 8.**—(1) The undertaker 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 the Schedule (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of the Schedule relating to the authorised works specified in column (4) of the Schedule;
  - (b) remove any buildings and vegetation from that land;
  - (c) construct temporary works (including the provision of means of access) and buildings on that land; and
  - (d) use the land for the purposes of a working site with access to the working site in connection with the authorised works.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker 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 work specified in relation to that land in column (4) of the Schedule.

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

(5) The undertaker must 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, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 51 (no double recovery) of the 2008 Order as applied by article 15 (application of provisions of the 2008 Order), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of

the 1965 Act(1) 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) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1) except that the undertaker is not precluded from acquiring new rights over any part of that land under article 6 (power to acquire new rights).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act(2) applies to the temporary use of land under 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 1965 Act).

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

9.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of 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) does not authorise the undertaker 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 undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker 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, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must 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, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 51 (no double recovery) of the 2008 Order as applied by article 15 (application of provisions of the 2008 Order), nothing in this article affects 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 undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

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(1) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(2) Section 13 was amended by sections 62(3) and 139 of, and paragraph 27 and 28 of Schedule 13, and part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(10) Section 13 of the 1965 Act applies 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 1965 Act).

(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.