
STATUTORY INSTRUMENTS

2016 No. 545

**The Midland Metro (Birmingham City Centre Extension,
etc.) (Land Acquisition and Variation) Order 2016**

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for maintenance of works

26.—(1) Subject to paragraph (2), at any time during the maintenance period relating to the Order 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 maintaining the works or any ancillary works connected with them; 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 Executive to take temporary possession of—

- (a) any house or garden belonging to a house;
- (b) any building (other than a house) if it is for the time being occupied; or
- (c) any land specified in column (1) of Part 2 of Schedule 1 (acquisition of land and rights) (but without affecting the power to acquire rights under article 23(2) (power to acquire new rights) 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 must 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.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the Executive must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The Executive 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 (determination of questions of disputed compensation) of the 1961 Act.

(8) Without affecting article 42 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection)

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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 is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority)(1) of the 1965 Act 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 21(1) (application of Part 1 of the 1965 Act).

(11) In this article—

- (a) “the maintenance period”, in relation to the Order works, means the period of 5 years beginning with the date on which the work is opened for use; and
- (b) 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.

(1) As amended by sections 62(3) and 139(4)-(9) of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).