
STATUTORY INSTRUMENTS

2004 No. 389

The Network Rail (West Coast Main Line) Order 2004

PART III

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for construction of works

28.—(1) Subject to paragraph (13), Network Rail 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 11 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the works or the facilities (or any of those works or facilities) so 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) Without prejudice to the generality of paragraph (1)(c), Network Rail may, in connection with the carrying out of the authorised works, construct—

- (a) a temporary vehicular bridge over the river Tame on the land numbered 22, 34 and 42 on the deposited plans in the district of Lichfield, in the county of Staffordshire; and
- (b) a temporary vehicular bridge over the Coventry Canal on the land numbered 183, 193 and 196 on the deposited plans at Huddlesford in the district of Lichfield, in the county of Staffordshire,

in accordance with the levels shown on the deposited sections but subject to the power to deviate in article 6(2).

(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) Subject to paragraph (13), Network Rail 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 or works, or the date of the provision of the facility or facilities, specified in relation to that land in column (4) of Schedule 11 to this Order.

(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; but Network Rail shall not be required to replace a building removed under this article.

(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 I of the 1961 Act.

(8) Without prejudice to article 43, 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) Subject to paragraph (10), the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1).

(10) Network Rail shall not be precluded from acquiring over any part of the land referred to in paragraph (1)—

- (a) new rights under article 24, or
- (b) soil nailing rights under article 26.

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

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

(13) Where, in relation to land specified in columns (1) and (2) of Schedule 11 to this Order, the purpose specified in column (3) of that Schedule in relation to that land is a right of access—

- (a) references in this article to entering upon and taking possession of land shall be construed as references to using the land as an access and related expressions shall be construed accordingly; and
- (b) paragraphs (1)(b) and (c) and (4) shall not apply.