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STATUTORY INSTRUMENTS

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**2018 No. 571**

**The Network Rail (Kings Mill No. 1 Level Crossing)  
(Land Acquisition and Closure) Order 2018**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession or use of land*

**Temporary use of land in connection with the development**

9.—(1) — Network Rail may, in connection with the development and the creation of the new public right of way, enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 3 (land of which temporary possession may be taken) for the purposes described in column (3).

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

(3) 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 works for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to replace a building removed in connection with the implementation of the development or remove any part of the new public right of way on the land.

(5) Network Rail 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 18 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(1) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of 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 Network Rail is not precluded from—

- (a) acquiring new rights over any part of that land under article 8 (power to acquire new rights); or

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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.

(b) the temporary use of airspace under article 10 (cranes).

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

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

## Cranes

**10.**—(1) Network Rail may enter upon and use airspace above the surface of land specified in paragraph (8) for the oversailing of cranes used by Network Rail in connection with the development or the creation of the new public right of way.

(2) The power under paragraph (1) is exercisable on giving at least 7 days' notice to the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, use airspace above the surface of the land as mentioned in paragraph (1) after the end of 7 days beginning with the date of completion of the activities for which the crane has been used.

(4) Network Rail must pay compensation to the owners and occupiers of land above which the power under paragraph (1) is exercised for any loss which they may suffer by reason of the exercise of that power.

(5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the 1961 Act.

(6) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (as applied by article 6(1) to the acquisition of land under article 5(1)) or under any other enactment, otherwise than for loss for which compensation is payable under paragraph (4).

(7) 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 Network Rail is not precluded from—

- (a) acquiring new rights over any part of that land under article 8 (power to acquire new rights); or
- (b) the temporary use of land under article 9 (temporary use of land in connection with the development).

(8) This is the land referred to in paragraph (1)—

<i>Area</i>	<i>Number of land shown on the deposited plan</i>
County of Nottinghamshire	7, 11 to 17 and 22
District of Ashfield	
County of Nottinghamshire	1 to 4 and 10
Districts of Mansfield and Ashfield	

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(2) Section 13 was amended by sections 62(3) and 139 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).