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STATUTORY INSTRUMENTS

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**2020 No. 511**

**The West Midlands Rail Freight Interchange Order 2020**

**PART 5**

**POWERS OF ACQUISITION**

**Temporary use of land for maintaining the authorised development**

**35.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for those purposes provided that any temporary access to the public highway shall be subject to the approval of the relevant highway authority.

(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 on 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 remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development 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—

- (a) remove all temporary works (including temporary access to the public highway);
- (b) restore the land affected by temporary works to the reasonable satisfaction of the owners of the land;
- (c) reinstate the land affected by any temporary highway access to the reasonable satisfaction of the relevant highway authority.

(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, must be determined under Part 1 of the 1961 Act.

(8) 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 maintenance of the authorised development, 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.

(10) Section 13<sup>M1</sup> (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article, “maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first brought into use.

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**Marginal Citations**

**M1** 1965 c. 56. Section 13 was amended by section 139(4) to (9) and section 62(3) of, paragraphs 27 and 28(1) to (3) of Schedule 13 to, and Part 13 of Schedule 23 to, the [Tribunal, Courts and Enforcement Act 2007](#) (c. 15).

**Changes to legislation:**

There are currently no known outstanding effects for the The West Midlands Rail Freight Interchange Order 2020, Section 35.