
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 203

**The Highland Council (Muck)
Harbour Empowerment Order 1999**

PART III

LAND

Temporary possession of land for maintenance of works

13.—(1) At any time during the maintenance period relating to any of the works authorised by this Order the Council may—

- (a) enter upon and take temporary possession of any land which is—
 - (i) within 20 metres from that work; and
 - (ii) within the limits of deviation for the works or the limits of land to be acquired or used,
if such possession is reasonably required for the purpose of, or in connection with 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 reasonable necessary for that purpose.

(2) Paragraph (1) above shall not authorise the Council 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 Council shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The Council 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 Council shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The Council 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) above, or as to the amount of the compensation, shall be determined in accordance with the provisions of the Land Compensation Act.

(8) Without prejudice to article 29 (no double recovery) of this Order, nothing in this article shall affect any liability to pay compensation under any 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) above.

(9) Where the Council take possession of land under this article, they shall not be required to purchase the land or any interest in it.

(10) In this article—

- (a) “the maintenance period” in relation to any of the authorised works, means the period of 15 years beginning with the date on which that work is opened for use; and
- (b) any reference to land within a specified distance of a work includes, in the case of a 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.