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STATUTORY INSTRUMENTS

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**2005 No. 927**

**The Midland Metro (Wednesbury to Brierley Hill  
and Miscellaneous Amendments) Order 2005**

**PART 3**

**ACQUISITION AND POSSESSION OF LAND**

*Temporary possession of land*

**Temporary use of land for construction of works**

- 34.**—(1) The Executive may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of—
    - (i) any of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule, and
    - (ii) subject to paragraph (9), any of the general land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;
  - (b) remove any buildings and vegetation from the land; and
  - (c) construct temporary works (including the provision of means of access) and buildings on the land.
- (2) Not less than 28 days before entering upon and taking temporary possession of land under this article the Executive shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The Executive may not, without the agreement of the owners of the land, remain in possession of any land under this article—
- (a) in the case of the land specified in columns (1) and (2) of Schedule 8 to this Order, after the end of the period of one year beginning with the date of completion of the work or works specified in relation to that land in column (4) of Schedule 8 to this Order; or
  - (b) in the case of the general land, after the end of the period of one year beginning with the date of completion of the work or works for which temporary possession of the land was taken unless the Executive has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.
- (4) Before giving up possession of land of which temporary possession has been taken under this article, the Executive shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Executive shall not be required to replace a building removed under this article.

(5) The Executive 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.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

(7) Without prejudice to article 54, 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 (5).

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

(9) Paragraph (1)(a)(ii) shall not authorise the Executive to take temporary possession of—

- (a) any dwelling house or garden belonging to a dwelling house; or
- (b) any building (other than a dwelling house) if it is for the time being occupied.

(10) In this article—

“building” includes any structure or erection; and

“the general land” means any land within the Order limits other than—

- (a) the land specified in columns (1) and (2) of Part 2 of Schedule 2 to this Order;
- (b) the land specified in columns (1) and (2) of Schedule 8 to this Order;
- (c) the land in Dudley shown numbered 560 to 565, 620, 729 and 730 on the land plans;
- (d) the land in Sandwell shown numbered 503, 535 to 537, 545, 546, 631, 704 and 705 on the land plans.