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STATUTORY INSTRUMENTS

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**2017 No. 830**

The London Overground (Barking  
Riverside Extension) Order 2017

PART 3

ACQUISITION AND POSSESSION OF LAND

*Temporary possession of land*

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

**28.**—(1) Subject to paragraph (2), TfL may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken) and shown on the deposited plans as within the limits of land to be used only temporarily, for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of those works) so specified in column (4) of that Schedule; and
  - (ii) any of the land within the limits of deviation and of land to be acquired or used in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act<sup>(1)</sup> and no declaration has been made under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981<sup>(2)</sup> ;
- (b) remove any buildings, apparatus and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on the land; and
- (d) construct any works in relation to that land as are mentioned in Schedule 1 (scheduled works) and any other works that are required.

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

(3) TfL 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 land specified in columns (1) and (2) of Schedule 5, after the end of the period of 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of that Schedule; or

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(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(2) 1981 c. 66.

(b) in the case of land within the limits of deviation and of land to be acquired or used, after the end of the period of 2 years beginning with the date of completion of the works for which temporary possession of the land was taken unless TfL 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 in relation to that land.

(4) Subject to paragraph (7), before giving up possession of land of which temporary possession has been taken under this article, TfL must remove all temporary works above a level 1 metre below the surface of the ground and restore the land above that level to the reasonable satisfaction of the owners of the land; but TfL is not required to replace a building removed under this article or restore the land on which any permanent works have been constructed under paragraph (1)(d).

(5) TfL 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 44 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(3) (further provision as to compensation for injurious affection) 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 TfL takes possession of land under this article, TfL is not required to acquire the land or any interest in it.

(9) Section 13(4) (refusal to give possession to 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 acquisition of land under this Order by virtue of article 22(1) (application of Part 1 of the 1965 Act).

### **Temporary use of land for maintenance of works**

**29.**—(1) Subject to paragraphs (2) and (3), at any time during the maintenance period relating to any of the scheduled works, TfL may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise TfL 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 TfL must serve notice of the intended entry on the owners and occupiers of the land.

(4) TfL may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of works for which possession of the land was taken.

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(3) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Compulsory Purchase) Act 1990 (c. 11) and S.I. 2009/1307.

(4) 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).

(5) Before giving up possession of land of which temporary possession has been taken under this article, TfL must remove all temporary works above a level 1 metre below the surface of the ground and restore the land above that level to the reasonable satisfaction of the owners of the land.

(6) TfL 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, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 44 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) 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) Where TfL takes possession of land under this article, TfL is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to 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 acquisition of land under this Order by virtue of article 22(1) (application of Part 1 of the 1965 Act).

(11) In this article "the maintenance period", in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use.