
STATUTORY INSTRUMENTS

2020 No. 141

**The Midland Metro (Birmingham
Eastside Extension) Order 2020**

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for maintenance of works

35.—(1) Subject to paragraph (2), at any time during the maintenance period relating to the scheduled works, the Authority may—

- (a) enter upon and take temporary possession of any land within the Order limits 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 the Authority 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; or
- (c) the vaults beneath Corporation Street forming part of the land numbered 4 on the works and land plans.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the Authority must serve notice of the intended entry on the owners and occupiers of the land.

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

(6) The Authority 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 (determination of questions of disputed compensation) of the 1961 Act.

(8) Without affecting article 38 (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)

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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 the Authority takes possession of land under this article, the Authority is not required to acquire the land or any interest in it.

(10) The powers conferred by this article must not be exercised in relation to any street without the consent of the street authority, which must not be unreasonably withheld.

(11) 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 29(1) (application of Part 1 of the 1965 Act).

(12) 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 public use.