
STATUTORY INSTRUMENTS

2005 No. 120

The Merseytram (Liverpool City Centre to Kirkby) Order 2005

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for construction of works

36.—(1) Merseytravel may, in connection with the carrying out of the authorised works—

(a) enter upon and take temporary possession of—

(i) so much of the land shown on the works and land plans as lying within the temporary limits for the purpose specified in relation to that land in column (3) of Schedule 9 to this Order relating to the scheduled works (or any of them) specified in column (4) of that Schedule; and

(ii) any of the land within the permanent limits in respect of which no notice of entry has been served under section 11 of the 1965 Act or no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

(b) remove any buildings and vegetation from that land; and

(c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 14 days before exercising the powers of paragraph (1) Merseytravel shall serve notice of the intended entry on the owners and occupiers of the land.

(3) Merseytravel may not, without the agreement of the owners of the land, remain in possession of any land of which temporary possession has been taken under this article—

(a) in the case of land lying within the temporary limits, after the end of the period of 2 years beginning with the date of completion of the work or works specified in relation to that land in column (4) of Schedule 9 to this Order; or

(b) in the case of land within the permanent limits, after the end of the period of 2 years beginning with the date of completion of the work or works for which temporary possession of the land was taken unless Merseytravel has, by 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) Before giving up possession of land of which temporary possession has been taken under this article, Merseytravel shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Merseytravel shall not be required to replace a building removed under this article.

(5) Merseytravel 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 76, 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 Merseytravel takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(9) Merseytravel shall not exercise the powers of this article in relation to any land within the permanent limits in the ownership or control of a local authority without the consent of the local authority, such consent not to be unreasonably withheld, and if within 28 days after any application for such consent has been submitted the local authority has not refused its consent and given the grounds for refusal, it shall be deemed to have given its consent.

(10) In this article "building" includes any structure or other erection.

(11) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 30(1).

Temporary use of land for maintenance of works

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

- (a) enter upon and take temporary possession of any land within the Order limits and lying within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, 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) shall not authorise Merseytravel 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 Merseytravel shall serve notice of the intended entry on the owners and occupiers of the land.

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

(6) Merseytravel 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), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

(8) Without prejudice to article 76, 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 (6).

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

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

(11) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 30(1).

(12) In this article—

- (a) “building” includes any structure or other erection;
- (b) “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; and
- (c) 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.