



Midland Metro (No. 2) Act 1993

1993 CHAPTER vi

PART IV

PROTECTIVE PROVISIONS

18 Application of protective provisions of Midland Metro Acts.

- (1) The following protective provisions of the Act of 1989 and the No. 1 Act of 1992 shall, so far as applicable and subject to the modifications specified in subsection (2) below and any other necessary modifications, apply for the purposes of this Act as they apply for the purposes of those Acts—

in the Act of 1989—

- section 36 (Notice to police);
- section 37 (As to highways, traffic, etc.);
- section 39 (For protection of British Waterways Board);
- section 40 (For protection of public sewers);
- section 41 (For protection of certain statutory undertakers);
- section 42 (For protection of telecommunications operators); and
- section 43 (Crown rights);

in the No. 1 Act of 1992—

- section 20 (As to underground works affecting highways);
- section 21 (For protection of National Rivers Authority); and
- section 22 (For protection of British Railways Board).

- (2) For the purposes of this section—

- (a) in the said section 36, after the word “police”, there shall be inserted the words “and to the fire authority”;
- (b) in the said section 40 of the Act of 1989, paragraph (14) shall not apply to the construction of any authorised railway in land now forming part of, or adjoining, any existing railway of the railways board;
- (c) in the said section 41 of the Act of 1989—

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- (i) for the reference to statutory undertakers as defined in the Act of 1989 there shall be substituted reference to statutory undertakers as defined in the No. 1 Act of 1993; and
- (ii) paragraph (16) shall not apply to the construction of any authorised railway in land forming part of, or adjoining, any existing railway of the railways board; and
- (d) in the said section 20 of the No. 1 Act of 1992, for the reference to section 37 of the Act of 1989 as applying for the purposes of the No. 1 Act of 1992, there shall be substituted reference to that provision as applying for the purposes of this Act.

19 Removal of human remains.

- (1) In this section “the specified land” means the land in the City of Birmingham numbered 18 on the deposited plans.
- (2) Before the Executive begin to use any part of the specified land for the construction of any authorised works therein less than 9 metres below the surface of that part of that land they shall remove, or cause to be removed, from that part of the specified land the remains of all deceased persons interred therein in accordance with the following provisions of this section.
- (3) Before any such remains are removed from the specified land the Executive shall give notice in accordance with subsection (4) below of such intended removal.
- (4) Notice under subsection (3) above shall describe the specified land and state the general effect of the following provisions of this section, and shall be given by:—
 - (a) publishing it once in each of two successive weeks in a newspaper circulating in the City of Birmingham; and
 - (b) displaying it in a conspicuous place upon or near to the specified land.
- (5) At any time within 56 days after the first publication of a notice under subsection (3) above, any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the Executive of his intention to undertake the removal of such remains, and thereupon if such remains can be identified, he shall be at liberty to cause such remains to be removed and reinterred in any burial ground or cemetery in which burials may legally take place, or to be removed to and cremated in any crematorium, and, forthwith after such reinterment or cremation, shall provide to the Executive a certificate for the purpose of enabling compliance with subsection (9) below.
- (6) If any person giving such notice as aforesaid fails to satisfy the Executive that he is such personal representative or relative as he claims to be or that the remains in question can be identified, the question shall be determined on the application of either party by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.
- (7) The Executive shall defray the reasonable expenses of the removal and reinterment or cremation of such remains.
- (8) If—
 - (a) within the said period of 56 days no notice under subsection (5) above has been given to the Executive in respect of any remains in the specified land; or

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- (b) such notice is given and no application is made under subsection (6) above within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days thereafter; or
- (c) within 56 days after any order is made by the county court under subsection (6) above any person, other than the Executive, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified;

the Executive shall remove the remains and cause them either to be reinterred in such burial ground or cemetery in which burials may legally take place as the Executive thinks suitable for the purpose, or cremated in such crematorium as the Executive thinks suitable for the purpose:

Provided that if any personal representative or relative has given notice under subsection (5) above and has satisfied the Executive that he is such personal representative or relative as he claims to be and that the remains in question can be identified but does not remove the remains, the Executive shall comply with any reasonable request he may make in relation to the removal and reinterment or cremation of the remains.

- (9) Upon the reinterment or cremation of any remains under this section, a certificate of reinterment or cremation shall be sent to the Registrar General by the Executive giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.
- (10) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.
- (11) Any jurisdiction or power conferred on the county court by this section may be exercised by the district judge of the court.
- (12) Section 25 of the Burial Act 1857 shall not apply to a removal carried out in accordance with this section.