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STATUTORY INSTRUMENTS

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**2005 No. 1794**

The Midland Metro (Birmingham City  
Centre Extension, etc.) Order 2005

PART 5

MISCELLANEOUS AND GENERAL

**Planning permission: supplementary matters**

**44.**—(1) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

(2) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(1) as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act.

(3) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999(2) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

**Statutory undertakers, etc.**

**45.** The provisions of Schedule 7 to this Order shall have effect.

**Minerals**

**46.**—(1) Parts II and III of Schedule 2 to the Acquisition of Land Act 1981(3) (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to land to which article 25 applies as if it were comprised in a compulsory purchase order providing for the incorporation with that order of those Parts of that Schedule.

(2) In their application by virtue of paragraph (1), Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 shall have effect with the following modifications—

(a) references to the acquiring authority shall be construed as references to the Executive; and

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(1) S.I.1969/17.  
(2) S.I. 1999/1892.  
(3) 1981 c. 67.

- (b) references to the undertaking shall be construed as references to the undertaking which the Executive is authorised by this Order to carry on.

### **Saving for highway authorities**

47. Nothing in this Order shall affect any power of a highway authority to widen, alter, divert or improve any highway along which the authorised tramway is constructed or operated.

### **Certification of plans, etc.**

48. The Executive shall, as soon as practicable after the making of this Order, submit one or more copies of the book of reference, the deposited sections, the land plans and the works plans to the Secretary of State for certification that they are, respectively, the book of reference, the deposited sections, the land plans and the works plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

49.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>(4)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address at the time of service.

(4) Where, for the purposes of this Order, a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

### **No double recovery**

50. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

### **Disclosure of confidential information**

51. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 21 or 23, and

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(4) 1978 c. 30.

- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

### **Withholding of consent**

**52.** Where it is provided in this Order that any consent or approval is not to be unreasonably withheld, any dispute as to whether it is so unreasonably withheld or as to any conditions subject to which it is given shall (where no other provision is made in this order with respect to the determination in question) be determined by arbitration.

### **Arbitration**

**53.** Where under this Order (including any provision incorporated in or applied by this Order) any difference (other than a difference to which the provisions of the 1965 Act apply) is to be determined by or referred to arbitration, then the difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

### **Protective provisions for Network Rail and British Waterways Board**

**54.** Schedule 8 shall have effect.