
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Midland Metro (Wednesbury to Brierley Hill
and Miscellaneous Amendments) Order 2005

PART 5

MISCELLANEOUS AND GENERAL

Planning permission: supplementary matters

48.—(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.

49. The provisions of Schedule 10 to this Order shall have effect.

Minerals

50.—(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 29 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

(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

51. 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.

52. 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

53.—(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⁽⁴⁾ 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

54. 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

55. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 24 or 26; and

(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

56. 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 of the dispute in question) be determined by arbitration.

Arbitration

57. 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

58. Schedule 11 (which contains provisions for the protection of the British Waterways Board, the Environment Agency and Network Rail Infrastructure Limited) shall have effect.

Midland Metro Line 1: miscellaneous amendments

59.—(1) The application of section 14 of the 1984 Act by section 5(4) of the 1989 Act shall cease to have effect in relation to carriages used on tramways forming part of Midland Metro Line 1.

(2) Section 25 of the 1870 Act as applied with modifications by section 4(1) and (2)(b)(i) of the 1989 Act shall have effect with respect to any tramway comprised in Midland Metro Line 1 as if the words “and shall be laid” to the end of the section were omitted; and article 27(3) and (4) shall apply to Midland Metro Line 1 as it applies to the authorised tramway.

(3) The defence provided in paragraph (6) of article 16 shall apply to any failure by the Executive to maintain (or to keep in good condition and repair) a highway under the relevant repairing provisions as it applies to a failure to maintain a highway under that article, and paragraph (7) of that article shall have effect accordingly.

(4) References in this article to any provision of the 1989 Act include a reference to that provision as applied by any of the other Midland Metro Acts 1989 to 1993.

(5) In this article—

“the 1870 Act” means the Tramways Act 1870(5);

“Midland Metro Line 1” means the tramway constructed between Birmingham and Wolverhampton authorised by the 1989 Act, the Midland Metro (No. 2) Act 1992 and the Midland Metro (No. 2) Act 1993;

“the relevant repairing provisions” means—

- (a) section 21 of the 1989 Act, and

- (b) section 28 of the 1870 Act as applied by section 4(1) of the 1989 Act with respect to Midland Metro Line 1.