
STATUTORY INSTRUMENTS

2005 No. 927

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

PART 2

WORKS PROVISIONS

Supplemental powers

Attachment of equipment to buildings for purposes of tramway

23.—(1) Subject to the following provisions of this article, the Executive may affix to any building listed in Part 2 of the book of reference any brackets, cables, wires, insulators and other apparatus required in connection with the authorised tramway.

(2) The Executive shall not under this article affix any apparatus to a building without the consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld.

(3) Where—

- (a) the Executive serves on the relevant owner of a building a notice requesting the owner's consent to the affixing of specified apparatus to the building; and
- (b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give his consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld.

(4) Where, in the opinion of the Executive, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may apply to the magistrates' court, who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or may disallow the application.

(5) Where apparatus is affixed to a building under this article—

- (a) any owner for the time being of the building may serve on the Executive not less than 28 days' notice requiring the Executive at its own expense temporarily to remove the apparatus during any demolition, reconstruction or repair of the building if such removal is reasonably necessary for that purpose; and
- (b) the Executive shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The Executive shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1) and (5)(b); and any dispute as to a person's entitlement to compensation, or as to the amount of compensation, shall be determined under Part I of the 1961 Act.

(7) Nothing in this article shall prejudice the power of the Executive to acquire a new right under article 29 to attach apparatus to buildings.

(8) In this article—

“building” includes any structure (including a bridge); and

“relevant owner”—

- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the occupier of the building; or
- (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.