
STATUTORY INSTRUMENTS

2016 No. 545

**The Midland Metro (Birmingham City Centre Extension,
etc.) (Land Acquisition and Variation) Order 2016**

PART 2

WORKS PROVISIONS

Supplemental powers

Safeguarding works to buildings

16.—(1) Subject to the following provisions of this article the Executive may at its own expense and from time to time carry out such safeguarding works to any building which is within the Order limits as the Executive considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building of any part of the Order works; or
- (b) after the completion of the construction of that part of the Order works in the vicinity of the building, at any time up to the end of the period of 5 years beginning with the day on which that part of the Order works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised, the Executive may (subject to paragraph 5) enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out safeguarding works under this article to a building the Executive may (subject to paragraphs (5) and (6))—

- (a) enter the building and land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out safeguarding works to a building;
- (b) a right under paragraph (3) to enter a building and any land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the Executive must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to

carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 45 (arbitration).

(7) The Executive must compensate the owners and occupiers of any building or land in relation to which the powers conferred by this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) safeguarding works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

the Executive must compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without affecting article 42 (no double recovery) nothing in this article relieves the Executive from any liability to pay compensation under section 10(2)(1) (further provision as to compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) This article does not apply to any of the land specified in column (1) of Part 2 of Schedule 1 (acquisition of rights only).

(12) In this article “safeguarding works”, in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

(1) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.