
STATUTORY INSTRUMENTS

2016 No. 684

**The Midland Metro (Wolverhampton
City Centre Extension) Order 2016**

PART 2

WORKS PROVISIONS

Supplemental powers

Attachment of equipment to buildings

19. The Authority may affix to any building constructed at any time within the permanent limits—

- (a) any brackets, cables, wires, insulators and other apparatus required in connection with the construction, operation or maintenance of the authorised tramway; and
- (b) any lamps, cameras, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting or closed circuit television in consequence of the construction, operation or maintenance of the authorised tramway.

Discharge of water

20.—(1) The Authority may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, or in any street along which the authorised tramway is authorised to be laid, make openings into, and connections with, the watercourse, sewer or drain.

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(1).

(3) The Authority must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose but must not be unreasonably withheld.

(4) The Authority must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The Authority must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The Authority must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(2).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and
- (b) other expressions, excluding watercourses, used both in this article and in the Water Resources Act 1991(3) have the same meaning as in that Act.

Works to safeguard buildings and the operation of the authorised tramway

21.—(1) Subject to the following provisions of this article, the Authority may at its own expense and from time to time carry out such safeguarding works to any building lying within the Order limits as the Authority 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 authorised works (other than works authorised by this article); or
- (b) after the completion of the construction of that part of the authorised works (other than works authorised by this article), at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Authority 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 Authority may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, 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 Authority 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 of whether it is necessary or expedient to

(2) S.I. 2010/675.

(3) 1991 c. 57.

carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 53 (arbitration).

(7) The Authority 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 Authority must compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without affecting article 52 (no double recovery), nothing in this article relieves the Authority from any liability to pay compensation under section 10(2) 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) 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;
- (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; and
- (c) any works the purpose of which is to secure the safe operation of the authorised tramway or to prevent or minimise the risk of such operation being disrupted.

Power to survey and investigate land, etc.

22.—(1) The Authority may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits, any street along which the authorised tramway is authorised to be laid and any street having a junction with such a street;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the Authority thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out archaeological investigations on any such land;
- (d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;
- (e) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (d); and
- (f) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (e).

(2) No land may be entered, or equipment placed or left on or removed from the land, under paragraph (1), unless at least 7 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Authority—

- (a) must, if so required, before or after entering the land produce written evidence of that person's authority to do so; and
 - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes are to be made under this article—
- (a) in a carriageway or footway without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld.
- (5) The Authority must pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Nothing in this article overrides the requirement to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(4).

Mode of construction and operation of tramway

- 23.**—(1) The authorised tramway must be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.
- (2) The tramway must be constructed on a nominal gauge of 1,435 millimetres.
- (3) Where the authorised tramway is constructed along a street or in any place to which the public has access (including any place to which the public has access only on making a payment), the Authority must take such care as in all the circumstances is reasonable to ensure that the authorised tramway is constructed and maintained so that the street or other place is safe for other users.
- (4) When considering what measures are required under paragraph (3) the Authority must have particular regard to the character and usage of the street or other place and to those who could reasonably be expected to use it.
- (5) Where the authorised tramway has been constructed in a street, works by any person which affect or are likely to affect the Authority's obligations under paragraph (3), including works to any street surfaces and works affecting any equipment or apparatus placed in the street under article 10 (power to keep apparatus in streets) must not be carried out without the consent of the Authority, which may be given subject to such reasonable terms and conditions as the Authority may require but must not be unreasonably withheld.

Obstruction of construction of authorised works

- 24.** Any person who, without reasonable excuse—
- (a) obstructs another person acting under the authority of the Authority in setting out the lines of the scheduled works, or in constructing any of the authorised works; or
 - (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the Authority,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to construct temporary tramways

25.—(1) The Authority may, if it considers it necessary or expedient in consequence of any street works executed or proposed to be executed in a street along which an authorised tramway is constructed—

- (a) remove or discontinue the operation of the authorised tramway; and
- (b) lay, maintain and operate in that street or in a street near to that street a temporary tramway in place of the authorised tramway.

(2) The powers conferred by this article may only be exercised with the consent of the street authority but such consent may not be unreasonably withheld.

(3) The provisions of articles 9(2) (power to alter layout, etc., of streets), 10 (power to keep apparatus in streets), 11 (power to execute street works) and 42 (traffic signs) apply in relation to temporary tramways laid under the powers conferred by this article as they apply in relation to the authorised tramway.

Temporary interference with the Birmingham Canal

26.—(1) Without limitation on the scope of the powers conferred by article 6 (power to construct and maintain works), the Authority may in connection with the construction of Work No. 2—

- (a) temporarily interfere with the Birmingham Canal, by constructing or maintaining temporary works at any point within the Order limits as it considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the Birmingham Canal, load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised works; and
- (c) temporarily close the Birmingham Canal, or a part of it, to navigation.

(2) The power conferred by paragraph (1)(c) may only be exercised in a way which secures—

- (a) that no more of the Birmingham Canal is closed to navigation at any time than is necessary in the circumstances; and
- (b) that, if complete closure of the Birmingham Canal to navigation becomes necessary, all reasonable steps are taken to secure that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use it.

(3) Any person who, as a result of the exercise of the powers conferred by this article, suffers loss by reason of the interference with any private right of navigation is entitled to be paid compensation by the Authority to be determined, in case of dispute, under Part 1 of the 1961 Act.