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STATUTORY INSTRUMENTS

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**2020 No. 1067**

The Midland Metro (Wednesbury to  
Brierley Hill Land Acquisition) Order 2020

PART 3

MISCELLANEOUS AND GENERAL

**Statutory undertakers, etc.**

12. Schedule 4 (provisions relating to statutory undertakers, etc.) has effect.

**Minerals**

13.—(1) Parts 2 and 3 of Schedule 2 (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) to the Acquisition of Land Act 1981(1) have effect in relation to land to which article 3 (power to acquire land) 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 under paragraph (1), Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 have effect with the following modifications—

- (a) references to the acquiring authority are to be construed as references to the Executive; and
- (b) references to the undertaking are to be construed as references to the undertaking which the Executive is authorised by this Order to carry on.

**Certification of plans, etc.**

14. The Executive must, as soon as practicable after the making of this Order, submit copies of the book of reference and the land plans to the Secretary of State for certification that they are, respectively, true copies of the book of reference and the land plans referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

**Service of notices**

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

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(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 (references to service by post) of the Interpretation Act 1978(2) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person 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, the last known address of that person 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 the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission, the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document, the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic transmission given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

### **No double recovery**

**16.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

### **Protection for Network Rail**

**17.—(1)** The Executive must not exercise the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The Executive must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(3) The Executive must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, as applied by Schedule 4 (provisions relating to statutory undertakers, etc.), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) Where Network Rail is asked to give its consent under paragraphs (1), (2) or (3), such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

(5) The Executive and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the Executive of—

- (a) any railway property shown on the land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property.

(6) In this article, “railway property” means any railway belonging to Network Rail and any station, land, works, apparatus and equipment belonging to Network Rail or connected with them and includes any land easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment.

### **Protection for Canal and River Trust**

**18.**—(1) The Executive must not exercise the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any waterway of the Canal and River Trust unless the exercise of such powers is with the consent of the Canal and River Trust.

(2) The Executive must not acquire compulsorily any land of the Canal and River Trust or any easement or other right over such land, or use any such land, unless such acquisition or use is with the consent of the Canal and River Trust.

(3) The Executive must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, as applied by Schedule 4 (provisions relating to statutory undertakers, etc.), so as to divert any right of access to a waterway, but such right of access may be diverted with the consent of the Canal and River Trust.

(4) Where the Canal and River Trust is asked to give its consent under paragraphs (1), (2) or (3), such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

(5) In this article, “waterway” means any canal or inland navigation belonging to or under the management or control of the Canal and River Trust, and includes any works, land or premises belonging to the Canal and River Trust, or under its management or control, and held or used by the Canal and River Trust in connection with any such canal or inland navigation.

### **Existing agreements**

**19.** The agreement made between the West Midlands Passenger Transport Executive and Aquila Networks PLC and dated 5th March 2004 applies in relation to the exercise of the powers conferred by this Order as it applies to the exercise of the powers of the 2005 Order.