
STATUTORY INSTRUMENTS

2016 No. 545

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

PART 5

MISCELLANEOUS AND GENERAL

Planning permission

35. Planning permission, which is deemed by a direction under section 90(2A)(1) (development with government authorisation) of the 1990 Act to be granted in relation to the Order works, is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land for the purposes of that Act) of that Act.

Statutory undertakers, etc.

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

Existing agreements

37. The agreements listed in Schedule 5 (existing agreements) apply in relation to the exercise of the powers conferred by this Order as they apply to the exercise of the powers of the 2005 Order.

Minerals

38.—(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 1981 Act have effect in relation to land to which article 20 (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 1981 Act 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.

Saving for highway authorities

39. Nothing in this Order affects 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.

40. The Executive must, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited section, the land plan and the works plan to the Secretary of State for certification that they are, respectively, true copies of the book of reference, the deposited section, the land plan and the works plan 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

41.—(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 (5) 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 communication 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.

(2) 1978 c. 30.

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

No double recovery

42. 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.

Disclosure of confidential information

- 43.** A person who—
- (a) enters a factory, workshop or workplace under article 16 (safeguarding works to buildings) or 18 (power to survey and investigate land); and
 - (b) discloses to any person any information obtained as a result of that entry and relating to any manufacturing process or trade secret,

is 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 that person's performance of a duty in connection with the purposes for which the person was authorised to enter the land.

Withholding of consent

44. 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 is (where no other provision is made in this Order with respect to the determination in question) to be determined by arbitration.

Arbitration

45. 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 must 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 for Network Rail

46. Schedule 6 (protective provisions for Network Rail) has effect.