



Midland Metro (No. 2) Act 1992

1992 CHAPTER viii

PART I

PRELIMINARY

1 Short title

- (1) This Act may be cited as the Midland Metro (No. 2) Act 1992.
- (2) The Midland Metro Act 1989, the No. 1 Act of 1992 and this Act may be cited together as the Midland Metro Acts 1989 to 1992.

2 Interpretation

- (1) In this Act, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings and—

“the Act of 1989” means the Midland Metro Act 1989;

“the No. 1 Act of 1992” means the Act for which the Midland Metro Bill was deposited in the Session of Parliament 1989/90;

“authorised railway” means any railway authorised by this Act, including, where the context so admits, any railway adapted for use as part of the Metro;

“the authorised works” means the works authorised by this Act;

“existing” means existing at the commencement of this Act;

“the limits of deviation” means the limits shown on the deposited plans and, where in the case of a work in any street, no such limits are shown for that work, the boundaries of the street (including any verge or roadside waste adjoining it);

“the Metro” means the light rail transit system comprising the railways authorised by the Midland Metro Acts 1989 to 1992, including such railways designated as tramways, and all works and conveniences provided in connection with any of those railways, as that system is constructed, extended or altered from time to time;

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“statutory undertaker” means a licence holder under Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986, the National Rivers Authority and a water undertaker or any of them as the case may be;

“street” has the meaning given by section 329 of the Highways Act 1980 and includes a bridleway, cycle track or footpath as defined in the said section 329 and any way laid out or used as a cycleway;

“tramway” means a railway, or any part of a railway, authorised by the Midland Metro Acts 1989 to 1992 and therein designated as a tramway; and the following expressions have the same meanings as in the Act of 1989:—

“the Act of 1845”;

“the Act of 1965”;

“enactment”;

“the Executive”;

“land”;

“the railways board”.

- (2) Unless the context otherwise requires, any reference in this Act to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Act.
- (3) (a) In this Act, except as mentioned in paragraph (b) below, all distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length, and distances between points on a railway shall be taken to be measured along the railway.
- (b) This subsection does not apply to distances or lengths stated in section 8 (Power to deviate) of this Act.
- (4) Any reference in this Act to rights over land includes reference to the right to do or to place and maintain anything in, on or under the land, or in the air space above its surface.
- (5) Reference in this Act to access to any place includes egress from that place.

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The following provisions of the Act of 1989 which incorporate or apply enactments for the purposes of that Act shall have effect as if the references in those provisions to that Act included this Act:—

section 3 (Incorporation and application of enactments relating to railways);

section 4 (Application of Tramways Act 1870);

section 5 (Application of provisions of Public Utilities Street Works Act 1950 and Road Traffic Regulation Act 1984); and

section 6 (Application of Part I of Compulsory Purchase Act 1965).

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PART II

WORKS

4 Additional works and powers exercisable in Wolverhampton

Subject to the provisions of this Act the Executive may—

- (a) in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works in the Metropolitan Borough of Wolverhampton specified in Part I of Schedule 1 to this Act, with all necessary works and conveniences connected therewith; and
- (b) in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown, carry out the further works, with all necessary works and conveniences connected therewith, and exercise the further powers, in the Metropolitan Borough of Wolverhampton described in Part II of the said Schedule 1.

5 Additional works and powers exercisable in Dudley

Subject to the provisions of this Act the Executive may—

- (a) in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works in the Metropolitan Borough of Dudley specified in Part I of Schedule 2 to this Act, with all necessary works and conveniences connected therewith; and
- (b) in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown, carry out the further works, with all necessary works and conveniences connected therewith, and exercise the further powers, in the Metropolitan Borough of Dudley described in Part II of the said Schedule 2.

6 Substituted works and powers exercisable in Birmingham

(1) Subject to the provisions of this Act the Executive may—

- (a) in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works in the City of Birmingham specified in Part I of Schedule 3 to this Act, with all necessary works and conveniences connected therewith; and
- (b) in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown, carry out the further works, with all necessary works and conveniences connected therewith, and exercise the further powers, in the City of Birmingham described in Part II of the said Schedule 3.

(2) The Executive shall cease to have the powers to make and maintain the works, or to exercise the further powers, in the City of Birmingham specified in Part III of the said Schedule 3.

7 Substituted works and powers exercisable in Dudley, Sandwell and Wolverhampton

(1) Subject to the provisions of this Act the Executive may—

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- (a) in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works in the Metropolitan Boroughs of Dudley, Sandwell and Wolverhampton specified in Part I of Schedule 4 to this Act, with all necessary works and conveniences connected therewith; and
 - (b) in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown, carry out the further works, with all necessary works and conveniences connected therewith, and exercise the further powers, in the Metropolitan Boroughs of Sandwell and Wolverhampton described in Part II of the said Schedule 4.
- (2) The Executive shall cease to have the powers to make and maintain the works, or to exercise the further powers, in the Metropolitan Boroughs of Dudley and Sandwell specified in Part III of the said Schedule 4.
- (3) If so required in any agreement between the railways board and the Executive, the Executive shall—
- (a) construct Work No. 7 in substitution for so much of the Works Nos. 1 and 2 authorised by the No. 1 Act of 1992 as is specified in Part IV of Schedule 4 to this Act; and
 - (b) remove any part of the said Works Nos. 1 and 2 authorised by the No. 1 Act of 1992 then no longer required;

and thereafter the Executive shall cease to have the power to make and maintain that part of the said Works Nos. 1 and 2 authorised by the No. 1 Act of 1992, or to exercise the further powers, in the Borough of Wolverhampton specified in Part IV of the said Schedule 4.

8 Power to deviate

In the execution of the authorised works the Executive may, except as may be otherwise provided by this Act, deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

9 Level crossings

- (1) The Executive may carry the authorised railways with a double line across and on the level of the highways specified in Schedule 5 to this Act.
- (2) In the exercise of the powers of subsection (1) above, the Executive may alter or interfere with the level of any highway upon which any railway or associated work is to be laid.

10 Plans to be approved by Secretary of State

- (1) Before constructing any of the authorised railways the Executive shall submit to the Secretary of State for his approval plans, sections and particulars of their proposals concerning—
 - (a) permanent way or track and stations;
 - (b) tunnels, lifts, escalators and stairways;
 - (c) signalling;

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- (d) lighting; and
 - (e) ventilation.
- (2) Any such works shall be constructed and maintained in accordance with plans, sections and particulars approved by the Secretary of State.
- (3) Section 37 of the Electricity Act 1989 (which requires consent for overhead electric lines) shall not apply in relation to an electric line forming part of the authorised railways.

11 Application of works provisions of Acts of 1989 and 1992

- (1) The following provisions of the Act of 1989 and the No. 1 Act of 1992 relating to works shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply to the works authorised by this Act as they apply to the works authorised by those Acts:—

In the Act of 1989—

- section 9 (Requirements applicable to tramways);
- section 12 (Provision of accommodation for apparatus);
- section 15 (Gauge of railways and restrictions on working);
- section 17 (Transport consultative committee);
- section 18 (Temporary stoppage of highways);
- section 20 (Stopping up streets and footpaths in case of diversion or substitution);
- section 21 (Provisions as to repair of streets, footpaths, etc.);
- section 22 (Underpinning of houses near works);
- section 23 (Use of sewers, etc., for removing water);
- section 24 (Attachment of brackets, etc., to buildings for purposes of works); and
- section 25 (Provisions as to use of electrical energy);

In the No. 1 Act of 1992—

- subsection (3) of section 4 (Power to make works);
- subsections (2) to (7) of section 5 (Further works and powers);
- section 6 (Subsidiary works);
- subsection (3) of section 8 (Level crossings); and
- section 12 (Agreements with British Railways Board).

- (2) For the purposes of this section—
- (a) in the said section 9 of the Act of 1989, for the reference in subsection (3)(a)(ii) to section 8(4) of that Act, there shall be substituted reference to section 5(4) of the No. 1 Act of 1992 as applied in this Act;
 - (b) in the said section 12 of the Act of 1989, for the reference to section 11 of that Act, there shall be substituted reference to section 6 of the No. 1 Act of 1992 as applied in this Act;
 - (c) in the said section 18 of the Act of 1989—
 - (i) for the reference to streets within the meaning of that Act, there shall be substituted reference to streets within the meaning of this Act; and
 - (ii) for the reference to the limits of deviation and to the deposited plans within the meaning of that Act, there shall be substituted reference

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to the limits of deviation and the deposited plans within the meaning of this Act;

- (d) in subsection (1) of the said section 23 of the Act of 1989, for the reference to the limits of deviation within the meaning of that Act, there shall be substituted reference to the limits of deviation within the meaning of this Act;
- (e) in the said section 6 of the No. 1 Act of 1992, for the reference to the limits of deviation within the meaning of that Act, there shall be substituted reference to the limits of deviation within the meaning of this Act; and
- (f) in subsection (3) of the said section 8 of the No. 1 Act of 1992, for the reference to subsection (1) of that section, there shall be substituted reference to subsection (1) of section 9 of this Act.

12 Railway works in Oozells Street, Birmingham

- (1) Subject to the provisions of the No. 1 Act of 1992, the Executive may, for the purpose of providing access to the underground railways authorised by that Act, make and maintain permanent openings in so much of Oozells Street in the City of Birmingham as is within the limits of deviation for those works shown on the deposited plans referred to in that Act.
- (2) Accordingly section 9 (Railway works in streets) of the No. 1 Act of 1992 shall have effect as if, in Part I of Schedule 4 to that Act, after the entry “Broad Street” there were inserted the entry “Oozells Street” and as if, in Part II of that Schedule, the entry “Oozells Street” were omitted.

PART III

LANDS

13 Power to acquire lands

- (1) Subject to the provisions of this Act the Executive may enter upon, take and use—
 - (a) so much of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking;
 - (b) so much of the lands in the Metropolitan Borough of Walsall delineated on the deposited plans and thereon numbered 1 to 5 and described in the deposited book of reference, being lands within the limits of deviation for the Works Nos. 6 and 6A authorised by the No. 1 Act of 1992, as they may require for the purposes of the said Work No. 6 or for any purpose connected with, or ancillary to, their undertaking;
 - (c) so much of the land in the City of Birmingham delineated on the deposited plans and thereon numbered 18 and 19 and described in the deposited book of reference, being land within the limits of deviation for Works Nos. 21 and 21A authorised by the No. 1 Act of 1992, as they may require for the purposes of either of those works or for any purpose connected with, or ancillary to, their undertaking; and
 - (d) so much of any land specified in columns (2) and (3) of Schedule 6 to this Act shown on the deposited plans within limits of land to be acquired or used as

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they may require for the purpose specified in relation to that land in column (1) of that Schedule.

- (2) The Executive shall cease to have the power, under sections 13 (a) and 16 of the No. 1 Act of 1992, to acquire compulsorily so much of the land in the City of Birmingham delineated on the deposited plans referred to in that Act and thereon numbered 197 as forms part of the land specified in subsection (1) (c) above, and Schedule 6 to that Act shall have effect accordingly.

14 Temporary possession of lands

- (1) Subject to the provisions of this section the Executive may take temporary possession of and use any of the lands specified in Schedule 6 to this Act for the provision of working sites and access for construction purposes.
- (2) Not less than 28 days before entering upon and taking temporary possession of any land under this section the Executive shall give notice to the owners and occupiers of the land.
 - (i) (a) The Executive shall not, without the agreement of the owners and occupiers, remain in possession of any part of any land of which they take temporary possession under this section after a period of 18 months from the completion of the work of construction for which possession was required.
 - (b) Before giving up possession of any such land, the Executive shall remove all temporary works and restore the land to the reasonable satisfaction of the owners and occupiers thereof.
- (4) The Executive shall not be empowered to purchase compulsorily, or be required to purchase, any land of which they take temporary possession under this section.
 - (a) (a) The Executive shall compensate the owners and occupiers of any land of which they take temporary possession under this section for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to that land.
 - (b) Nothing in this section shall relieve the Executive from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied in this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (a) above.
- (6) Every case of compensation to be ascertained under this section shall be ascertained under the provisions of the Land Compensation Act 1961.

15 Application of land purchase provisions of Act of 1989

- (1) The following provisions of the Act of 1989 relating to the acquisition of lands or rights thereover shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply for the purposes of this Act to the lands delineated on the deposited plans and described in the deposited book of reference as they apply for the purposes of that Act to the lands referred to in those provisions:—
 - section 27 (Extinction of private rights of way);
 - section 28 (Power to acquire new rights);
 - section 29 (Acquisition of part only of certain properties);

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section 30 (Disregard of recent improvements and interests);
 section 31 (Set-off for enhancement in value of retained land);
 section 33 (Correction of errors in deposited plans and book of reference); and
 Schedule 5—Adaptation of Part I of the Compulsory Purchase Act 1965.

(2) For the purposes of this section—

- (a) in subsection (2) of the said section 28, for the reference to the works authorised by the Act of 1989, there shall be substituted reference to the works authorised by this Act;
- (b) in the said section 31, the references to works authorised by the Act of 1989 shall include reference to works authorised by the No. 1 Act of 1992 or by this Act; and
- (c) in the said section 33, for references to the deposited plans and the deposited book of reference within the meaning of the Act of 1989, there shall be substituted references to the deposited plans and the deposited book of reference within the meaning of this Act.

16 Period of compulsory purchase of lands or rights

- (1) The powers of the Executive for the compulsory acquisition of the lands and rights which they are authorised to acquire by this Part of this Act shall not be exercised after the expiration of five years from the passing of this Act.
- (2) The powers of the Executive for the compulsory acquisition of the said lands and rights shall, for the purposes of this section, be deemed to have been exercised if notice to treat has been served in respect of those lands and rights.

PART IV PROTECTIVE PROVISIONS

17 Application of protective provisions of Acts of 1989 and 1992

- (1) The following protective provisions of the Act of 1989 and the No. 1 Act of 1992 shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply for the purposes of this Act as they apply for the purposes of that Act:—

In the Act of 1989—

- section 36 (Notice to police);
- section 37 (As to highways, traffic, etc.);
- section 40 (For protection of public sewers);
- section 41 (For protection of certain statutory undertakers);
- section 42 (For protection of telecommunications operators);
- section 43 (Crown rights);

In the No. 1 Act of 1992—

- section 22 (For protection of British Railways Board); and
- section 23 (For protection of British Waterways Board).

(2) For the purposes of this section—

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- (a) in the said section 40, paragraph (14) shall not apply to the construction of any authorised railway in land now forming part of, or adjoining, any existing railway of the railways board; and
- (b) in the said section 41—
 - (i) for the reference to statutory undertakers as defined in the Act of 1989 there shall be substituted reference to statutory undertakers as defined in this Act; and
 - (ii) paragraph (16) shall not apply to the construction of any authorised railway in land forming part of, or adjoining, any existing railway of the railways board.

PART VGENERAL

18 Application of landlord and tenant law to Metro leases

- (1) This section applies to any agreement entered into by the Executive with any person under section 54 (2) of the Act of 1989 with the approval of the Secretary of State for the construction, maintenance, use or operation of the Metro, or any part of that system, so far as relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.
- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this section applies.
- (3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—
 - (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
 - (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
 - (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

19 Arbitration

Where under this Act any difference (other than a difference to which the provisions of the Act of 1965 as applied by this Act apply) is to be determined by arbitration, then, unless otherwise provided, the difference shall 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.

20 Planning permission

- (1) Subject to subsection (2) below, in its application to development authorised by this Act, the planning permission specified in subsection (3) below shall have effect as if

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the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

- (2) Subsection (1) above shall not apply to the carrying out of any development consisting of the alteration, renewal, maintenance or repair of the authorised works or the substitution of new works therefor.
- (3) The planning permission referred to in subsection (1) above is that granted for development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permits development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).