
STATUTORY INSTRUMENTS

2016 No. 545

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

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

20. The Executive may acquire compulsorily so much of the land in the City specified in column (1) of Part 1 of Schedule 1 (acquisition of land) (being land shown on the land plan and described in the book of reference) as may be required for any of the purposes specified in relation to that land in column (2) of that Part and may use any land so acquired for those purposes or for any other purposes that are ancillary to its tramway undertaking.

Application of Part 1 of the 1965 Act

21.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the 1981 Act applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as so applied, has effect as if section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(1) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981 has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) substitute—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and

- (b) published in a local newspaper circulating in the area in which the land is situated.
- (4) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.
- (5) In that section, for subsections (5) and (6) substitute—
 - “(5) For the purposes of this section, a person has a relevant interest in land if—
 - (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
 - (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.
- (6) In section 5 (earliest date for execution of declaration)—
 - (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
 - (b) omit subsection (2).
- (7) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 20 (power to acquire land).

Power to acquire new rights

23.—(1) The Executive may acquire compulsorily such easements or other rights over any land in the City referred to in article 20 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision.

(2) Subject to paragraph (4) the Executive may acquire compulsorily such easements or other rights over any land in the City specified in column (1) of Part 2 of Schedule 1 (acquisition of rights only) (being land shown on the land plan and described in the book of reference) as may be required for any of the purposes specified in relation to that land in column (2) of that Part.

(3) In paragraphs (1) and (2), the power compulsorily to acquire easements or other rights includes the power to do so by creating them as well as by acquiring easements or other rights already in existence.

(4) In exercising its powers under paragraph (2) the Executive may not acquire rights over plots 16, 17, 18, 19, 20, 21, 23, 24, 25, 31 and 32 unless any existing buildings in those plots have been demolished in accordance with the planning permission.

(5) Subject to section 8 (other provisions as to divided land) of the 1965 Act (as substituted by paragraph 5 of Schedule 2 (modification of compensation and compulsory purchase enactments for creation of new rights)), where a right over land is acquired under paragraph (1) or (2) the person acquiring the right is not required to acquire a greater interest in the land.

(6) In any case where the acquisition of new rights under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the Executive may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(7) Schedule 2 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

Rights under or over streets

24.—(1) The Executive may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the Order works and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised tramway.

(2) Subject to paragraph (4) the power under paragraph (1) may be exercised in relation to a street without the Executive being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (5) any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the Executive acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.