
STATUTORY INSTRUMENTS

2020 No. 141

**The Midland Metro (Birmingham
Eastside Extension) Order 2020**

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

28.—(1) The Authority may acquire compulsorily so much of the land shown on the works and land plans as lying within the permanent limits and described in the book of reference as may be required for or in connection with the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its tramway undertaking.

(2) This article is subject to article 32 (new rights only to be acquired in certain lands).

(3) This article does not apply to the vaults beneath Corporation Street forming part of the land numbered 4 on the works and land plans.

Application of Part 1 of the 1965 Act

29.—(1) Part 1 (compulsory purchase under the Acquisition of Land Act 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 Acquisition of Land Act 1981(1) applies; and

(b) as if this Order were a compulsory purchase order under that Act.

(2) In its application by virtue of paragraph (1), Part 1 of the 1965 Act has effect subject to the following modifications.

(3) Omit section 4 (time limit for giving notice to treat).

(4) In section 4A(1)(2) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 40 (time limit for exercise of powers of acquisition) of the Midland Metro (Birmingham Eastside Extension) Order 2020(3)”.

(1) 1981 c. 67.

(2) As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(3) S.I. 2020/141.

(5) In section 11(1B)(4) (powers of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(5) (powers of entry: further notices of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 40 (time limit for the exercise of powers of acquisition) of the Midland Metro (Birmingham Eastside Extension) Order 2020(6)”.

(8) In Schedule 2A(7) (counter-notice requiring purchase of land not in notice to treat)—

(a) omit paragraphs 1(2) and 14(2); and

(b) after paragraph 29 insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 22 (works to safeguard buildings and the operation of the authorised tramway), 34 (temporary use of land for construction of works) and 35 (temporary use of land for maintenance of works) of the Midland Metro (Birmingham Eastside Extension) Order 2020.”

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

30.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(8) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A(9) (time limit for general vesting declaration).

(5) In section 5B(10) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 40 (time limit for exercise of powers of acquisition) of the Midland Metro (Birmingham Eastside Extension) Order 2020”.

(6) In section 6(11) (notices after execution of declaration), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A(3) of the Transport and Works Act 1992”.

(4) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

(5) As inserted by section 186(3) of the Housing and Planning Act 2016.

(6) S.I. 2020/141.

(7) As inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016.

(8) 1981 c. 66.

(9) Inserted by section 182(2) of the Housing and Planning Act 2016.

(10) As inserted by section 202(2) of the Housing and Planning Act 2016.

(11) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.

(7) In section 7(12) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(13) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(9) References to the 1965 Act are to be construed as references to that Act as applied to the acquisition of land under article 28 (power to acquire land).

Powers to acquire new rights

31.—(1) The Authority may compulsorily acquire such easements or other rights over any land within the permanent limits as may be required for any purpose for which that land may be acquired, by creating them as well as by acquiring easements or other rights already in existence.

(2) This article is subject to article 32 (new rights only to be acquired in certain lands).

(3) Subject to Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 5 (modification of compensation and compulsory purchase enactments for creation of new rights)) where the Authority acquires a right over land under paragraph (1) the Authority is not required to acquire a greater interest in that land.

(4) Schedule 5 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application to the compulsory acquisition under this article of a right over land by the creation of a new right.

(5) Paragraph (1) does not apply to the vaults beneath Corporation Street forming part of the land numbered 4 on the works and land plans.

New rights only to be acquired in certain lands

32. In the case of land specified in Schedule 6 (acquisition of new rights only) the Authority’s powers of compulsory acquisition under article 28 (power to acquire land) and article 31 (power to acquire new rights) are limited to the acquisition of such easements or other new rights in the land as it may require for the purposes of—

- (a) exercising the powers conferred by article 20 (attachment of equipment to buildings) and using and maintaining any apparatus affixed in the exercise of those powers; or
- (b) creating rights of way over any land within the permanent limits.

Rights under or over streets

33.—(1) The Authority may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the works and land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air-space for those purposes or any other purpose ancillary to its tramway undertaking.

(2) Paragraph (1) does not apply to—

- (a) any interest in the surface, subsoil of, or air space over, any street which has been acquired by the Secretary of State under the compulsory acquisition powers in the 2017 Act; or
- (b) the vaults beneath Corporation Street forming part of the land numbered 4 on the works and land plans.

(3) Subject to paragraph (5), the power under paragraph (1) may be exercised in relation to a street without the Authority being required to acquire any part of the street or any easement or right in the street.

(12) As amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.

(13) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) Subject to paragraph (6) 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 Authority 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, the amount of such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Paragraph (3) does not apply in relation to—

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

(6) Compensation is not payable under paragraph (4) 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.