STATUTORY INSTRUMENTS

2016 No. 684

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Midland Metro (Wolverhampton City Centre Extension) Order 2016

Made - - - -	*12th July 2016*
Coming into force - -	*2nd August 2016*

An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(**1**) for an Order under sections 1 and 5 of the Transport and Works Act 1992(**2**) ("the 1992 Act").

The Secretary of State caused an inquiry to be held for the purposes of the application under section 11 of the 1992 Act.

The Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make any substantial change in the proposals.

Notice of the Secretary of State's determination was published in the London Gazette on 24th June 2016.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 13 and 15 to 17 of Schedule 1 to, the 1992 Act, makes the following Order —

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Midland Metro (Wolverhampton City Centre Extension) Order 2016 and comes into force on 2nd August 2016.

(**1**) S.I. 2006/1466. amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590 and S.I. 2013/755.

(**2**) 1992 c. 42; section 1 was amended by the Planning Act 2008 (c.29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1659.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**3**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**4**);

"the 1980 Act" means the Highways Act 1980(**5**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**6**);

"the 1989 Act" means the Midland Metro Act 1989(**7**);

"the 1990 Act" means the Town and Country Planning Act 1990(**8**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**9**);

"address" includes any number or address used for the purposes of electronic transmission;

"the authorised tramway" means the tramway authorised by this Order;

"the authorised works" means the scheduled works and any other works authorised by this Order, or any part of them;

"the Authority" means the West Midlands Combined Authority established under article 3 of the West Midlands Combined Authority Order 2016(**10**);

"the book of reference" means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

"building" includes any structure or erection, or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"cycle track" has the same meaning as in the 1980 Act;

"electric line" has the meaning given by section 64(1) of the Electricity Act 1989(**11**);

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"footway" has the same meaning as in the 1980 Act;

"highway" and "highway authority" have the same meaning as in the 1980 Act;

"the limits of deviation" means the limits of lateral deviation for the scheduled works mentioned in article 7(1)(a) and (2) (power to deviate);

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace and "maintenance" is to be construed accordingly;

"the Order limits" means the permanent limits and the temporary limits;

"owner", in relation to land, has the same meaning as in the Acquisition of Land Act 1981(**12**);

"parking place" has the same meaning as in section 32 (powers of local authorities to provide parking places) of the 1984 Act;

(**3**) 1961 c. 33.
(**4**) 1965 c. 56.
(**5**) 1980 c. 66.
(**6**) 1984 c. 27.
(**7**) 1989 c. xv.
(**8**) 1990 c. 8.
(**9**) 1991 c. 22. As amended by the Traffic Management Act 2004 c. 18.
(**10**) S.I. 2016/653.
(**11**) 1989 c. 29.
(**12**) 1981 c. 67.

"the permanent limits" means the limits of deviation and of land to be acquired or used, and the limits of land with rights to attach equipment to buildings, as shown on the works and land plans and described in the book of reference;

"the scheduled works" means the works specified in Schedule 1 (scheduled works), or any part of them;

"the sections" means the sections included in the works and land plans;

"street" includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

"street tramway" means any part of a tramway which is laid along a street whether or not the section of the street in which its rails are laid may be used by other traffic;

"the temporary limits" means the limits of land to be used temporarily as shown on the works and land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 6 (land of which temporary possession may be taken);

"the traffic regulation plan" means the plan certified by the Secretary of State as the traffic regulation plan for the purposes of this Order;

"tramcar" means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a tramway;

"tramroad" means any part of a tramway which is not a street tramway;

"tramway" means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels; and

(b) are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"watercourse" includes all docks, rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent) except a public sewer or drain; and

"the works and land plans" means the plans and sections certified by the Secretary of State as the works and land plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or under or on land or in the air-space over its surface.

(3) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to points identified by letters, with or without numbers, or by numbers, are to be construed as references to the points so marked on the works and land plans or, in the case of Schedule 7 (traffic regulation), to the points so marked on the traffic regulation plan.

(5) All areas, distances, directions, lengths and points stated in the description of the scheduled works or in any description of powers or lands are approximate and distances between points on a scheduled work are taken to be measured along the scheduled work.

Incorporation of the Railways Clauses Consolidation Act 1845

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(**13**) are incorporated into this Order as follows—

(**13**) 1845 c. 20.

sections 87 and 88 (contracts with other companies);

section 97 (default in payment of tolls);

section 103(**14**) (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

section 144 (defacing of boards); and

section 145(**15**) (recovery of penalties).

(2) In those provisions as incorporated in this Order—

"the company" means the Authority;

"goods" includes any thing conveyed on the authorised tramway;

"lease" includes an agreement for a lease;

"prescribed", in relation to any such provision, means prescribed by this Order for the purposes of that provision;

"the railway" means the authorised tramway, together with any authorised works ancillary to the authorised tramway;

"the special Act" means this Order; and

"toll" includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any authorised tramway to be constructed under this Order.

Application of the Midland Metro Acts

4.—(1) The authorised tramway is to be treated as part of the Metro (as defined in the Midland Metro Acts) for—

(a) the purposes of the following provisions of the 1989 Act—

section 3(3) (incorporation and application of enactments relating to railway);

section 16 (agreements with British Railways Board);

section 17 (transport consultative committee);

section 25 (provisions as to use of electrical energy);

section 46 (power to lop trees overhanging railway);

section 47 (removal of obstructions);

section 48 (for better prevention of trespass on railways);

section 49 (byelaws relating to metro);

section 50 (modification of railway regulation enactments);

section 51 (carriages on metro deemed public services vehicles);

section 52 (power to contract for police); and

section 54 (powers of disposal, agreements for operation, etc.); and

(b) the purposes of section 18 (application of landlord and tenant law to metro leases) of the (No. 2) 1992 Act,

but it is not to be so treated for—

(**14**) Section 103 was amended by the Statute Law Revision Act 1892 (c. 19), part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48).

(**15**) Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

(i) the purposes of the following provisions of the 1989 Act—

section 5(4) and (5) (application of provisions of Public Utilities Street Works Act 1950 and Road Traffic Regulation Act 1984);

section 15 (gauges of railways and restrictions on working);

section 24 (attachment of brackets, etc., to buildings for purposes of works);

section 44 (insulation against noise); or

section 45 (orders for insulating new buildings); or

(ii) section 24 (authorisation of new level crossings) of the 1992 Act.

(2) The authorised tramway is to be treated as part of the Metro (as defined in the Midland Metro Acts) for the purposes of sections 4 to 7 (provisions relating to penalty fares) of the Midland Metro (Penalty Fares) Act 1991(**16**) and of any order made from time to time under sections 3(2) (operation of Act) or 5(2) (penalty fares) of that Act (whether made before or after this Order comes into force), and expressions defined in section 2 (interpretation) of that Act have effect accordingly.

(3) In the application of the Midland Metro Acts to this Order—

(a) references to the railways board in section 16 (agreements with British Railways Board) and section 17 (transport consultative committee) of the 1989 Act are to be treated as references to a person holding a licence under section 8 (licences) of the 1993 Act or a person exempt, by virtue of section 7 (exemptions from section 6) of the 1993 Act, from the requirement to be authorised by such a licence;

(b) the reference to section 56 (the Transport Consultative Committees) of the Transport Act 1962(**17**) in section 17(1) (Transport consultative committee) of the 1989 Act is to be treated as a reference to section 25 (proposal to discontinue excluded services) of the Railways Act 2005(**18**) and for the words "as if" until the end of that subsection substitute the words "these services were special procedure excluded services for the purposes of that section";

(c) references to the railway in section 46(1) (power to lop trees overhanging railway) of the 1989 Act are to be treated as including the authorised tramway;

(d) the reference in section 47 (removal of obstructions) of the 1989 Act to any tramway is to be treated as reference to the authorised tramway; and

(e) references to railway premises in section 49 (byelaws relating to Metro) and section 52 (power to contract for police) of the 1989 Act are to be treated as including any premises of the Authority used in connection with the operation or maintenance of the authorised tramway.

(4) Section 8(4) (further works and powers) of the 1989 Act has effect for the purposes of the authorised tramway as it has effect for the purposes of the tramways authorised by that Act.

(5) In this article—

"the 1992 Act" means the Midland Metro Act 1992(**19**);

"the 1993 Act" means the Railways Act 1993(**20**);

"the (No. 2) 1992 Act" means the Midland Metro (No. 2) Act 1992(**21**); and

"the Midland Metro Acts" means the 1989 Act, the Midland Metro (Penalty Fares) Act 1991, the 1992 Act and the (No. 2) 1992 Act.

(**16**) 1991 c. ii.
(**17**) 1962 c. 46.
(**18**) 2005 c. 14.
(**19**) 1992 c. vii.
(**20**) 1993 c. 43.
(**21**) 1992 c. viii.