

Rule 10(2)(b)

TRANSPORT AND WORKS ACT 1992**TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS
PROCEDURE) (ENGLAND AND WALES) RULES 2000**

**THE MIDLAND METRO (WEDNESBURY TO BRIERLEY HILL AND MISCELLANEOUS
AMENDMENTS) ORDER**

EXPLANATORY MEMORANDUM

Application for the Order to the Secretary of State for Transport has been made by West Midlands Passenger Transport Executive.

The Order would authorise works and powers for the construction and operation of a tramway in the Metropolitan Boroughs of Sandwell and Dudley. The authorised tramway will form an extension to the tramway authorised by the Midland Metro Act 1989. The Order authorises such other works as may be necessary or expedient in connection with the tramway system.

PART I**PRELIMINARY**

Part I of the Order deals with preliminary matters.

Article 1 provides details of citation and the coming into force of the Order.

Article 2 contains provisions relating to the interpretation of words and phrases used in the Order.

Article 3 contains provisions dealing with the application of the New Roads and Street Works Act 1991.

Article 4 incorporates, subject to modifications, general provisions relating to railways contained in the Railways Clauses Consolidation Act 1845.

Article 5 applies certain provisions of the Midland Metro Acts 1989 to 1992 to the authorised tramway.

PART II**WORKS PROVISIONS**

Principal powers

Part II of the Order contains provisions relating to the construction and maintenance of works by the Executive.

Article 6 authorises the construction and maintenance by the Executive of the tramway and other works specified in **Schedule 1**, the ancillary works specified in the article and other necessary or expedient works related to the scheduled works.

Article 7 permits the Executive, in constructing and maintaining the works, to deviate (within specified limits) from the lines or situations shown on the works plans and deposited sections, and to make certain changes to the works. It also allows the laying of alternative lines of rails for authorised street tramways.

Article 8 permits the Executive to construct within the limits of deviation an off-street tramroad in place of any authorised street tramway described in the scheduled works or a street tramway in place of an authorised tramroad.

Streets

Article 9 empowers the Executive to alter the layout of the streets listed in **Schedule 3** in the manner specified in that Schedule. In addition, article 9 permits the Executive with the consent of the street authority to alter the layout of any street within the metropolitan borough of Sandwell or Dudley along which the tramway is laid in the manner specified in the article. It also requires the approval of the street authority to certain matters.

Article 10 provides that the Executive may place and maintain works, equipment or apparatus in any street in which the tramway is laid or which has a junction with it for the purposes of, or in connection with, the authorised works.

Article 11 provides that, for the purposes of exercise of the powers in **article 10** and the other provisions of the Order, the Executive may enter upon or carry out works in any street in which the tramway is laid or which has a junction with it.

Article 12 makes provision for the permanent stopping up of certain private means of access specified in the article and provides for the payment of compensation.

Article 13 makes provision for the permanent stopping up of the streets listed in **Schedule 4** for the purposes of the authorised works.

Article 14 makes provision for the temporary stopping up, alteration or diversion of any streets within Sandwell or Dudley Metropolitan Boroughs during construction with the consent of the street authority or in the case of the streets listed in **Schedule 5**, in consultation with the street authority.

Article 15 provides that the Executive may lay out or improve means of access to the scheduled works at the points shown on the works plans and, with the consent of the highway authority, elsewhere within the Order limits.

Article 16 requires the Executive to maintain highways constructed or altered under the Order for a period of 12 months from completion.

Article 17 provides for any bridge carrying a highway over the tramway or the tramway over a highway constructed or altered under the Order to be constructed in accordance with plans approved by the highway authority.

Article 18 requires the Executive where the street tramway is permanently discontinued to remove the rails and other works and equipment and to restore the street to the reasonable satisfaction of the street authority.

Article 19 provides for the Executive and any street authority to enter into agreements regarding the construction of a new street, maintenance of any bridge, the stopping up, alteration or diversion of streets or the execution of any street works referred to in **article 11**.

Article 20 authorises the Executive to construct level crossings to carry tramroads on the level across the highways or roads listed in **Schedule 6**, and across any new road created after application for the Order is made. The article also allows the Executive in constructing any crossing to provide, maintain and operate protective equipment at any level crossing provided, to alter the level of roads, to place traffic signs and to enter into agreements with the highway authority.

Article 21 permits the Executive to stop up the level crossings specified in the article and extinguish all rights of way over them. It also provides for the payment of compensation.

Supplemental powers

Article 22 makes provisions for the use of watercourses, drains and sewers for the drainage of water in connection with the construction and maintenance of works.

Article 23 permits the Executive, with the consent of the owner (not to be unreasonably withheld), to attach brackets and other apparatus to any building. Compensation is payable for loss or damage caused by the exercise of these powers.

Article 24 authorises the Executive to carry out safeguarding works to buildings within the Order limits and provides for the payment of compensation.

Article 25 provides, subject to the consent of the street authority (not to be unreasonably withheld), for the construction of temporary tramways in place of authorised street tramways required as a result of any street works.

Article 26 authorises the Executive to enter upon land within the Order limits after the service of notice, for the purpose of carrying out surveys and investigations.

Article 27 provides for the operational gauge, means of power and related matters concerning the authorised tramway.

Article 28 authorises the Executive in connection with the construction of certain works to temporarily interfere with, moor vessels on or temporarily close the waterways named in the article.

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Part III authorises the compulsory acquisition of land and rights necessary for the construction of the authorised works and provides for the payment of compensation.

Article 29 confers on the Executive powers of compulsory acquisition for the purposes of the works or for the purpose identified in **Schedule 2** to the Order in relation to certain lands identified on the land plans and described in the book of reference.

Article 30 applies, with modifications, the provisions of Part I of the Compulsory Purchase Act 1965.

Article 31 provides for the Order to apply as if it were a compulsory purchase order for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981 and provides for that Act to have effect subject to certain modifications.

Article 32 makes ancillary provision where rights over land are acquired. **Schedule 7** makes modifications of relevant enactments concerning compensation and compulsory powers in relation to such acquisitions.

Article 33 permits the Executive to enter upon and appropriate the subsoil of or airspace over streets within the Order limits without the requirement to acquire any part of the street or any easement or right in the street. There is provision for compensation to be paid where the street over which powers are exercised is not a highway.

Temporary possession of land

Article 34 enables the Executive to take temporary possession of land listed in **Schedule 8** and certain other land within the Order limits for use in connection with the construction of the works and makes provision for the payment of compensation.

Article 35 provides for the use of land within the Order limits for the maintenance of the works.

Article 36 authorises the Executive to take temporary possession of certain land after the service of notice for the purpose of carrying out accommodation and mitigation works (including moving of railway apparatus), and makes provision for the payment of compensation.

Compensation

Article 37 provides that in assessing the compensation payable in respect of compulsory acquisition the Lands Tribunal shall disregard any interest in land or any enhancement of an interest in land caused by improvements which they are satisfied was created or undertaken with a view to obtaining compensation or increased compensation.

Supplementary

Article 38 provides an alternative procedure where the Executive acquire compulsorily part only of certain types of properties subject to the right of the owner to require the whole of the property to be acquired, if part cannot be taken without material detriment to the remainder.

Article 39 provides for the extinguishment of private rights of way over land compulsorily acquired, and the suspension of private rights of way in respect of land temporarily occupied, and for payment of compensation.

Article 40 imposes a time limit of five years from the coming into force of the Order for the exercise of powers of compulsory acquisition of land.

PART IV

OPERATION OF TRAMWAY SYSTEM

Article 41 gives the Executive the right to operate and use the authorised tramway and other authorised works and apparatus as a transport system.

Article 42 requires works, plant and equipment of the authorised tramway to be maintained so as not to impair its safe operation.

Article 43 authorises the Executive to charge fares for carrying passengers or goods on the authorised tramway system and for related services and facilities.

Article 44 makes provision for the placing of traffic signs in connection with the operation of the authorised tramway.

Article 45 permits the Executive to cut or lop trees overhanging the Metro system, notwithstanding any tree preservation orders or similar provisions applying to trees in conservation areas.

Article 46 creates an offence of obstructing the construction of the authorised tramway and other authorised works.

Article 47 provides for the Executive with the consent of the traffic authority to make traffic regulation provision as detailed in **Schedule 9** in connection with the operation of the authorised tramway.

PART V

MISCELLANEOUS AND GENERAL

Article 48 provides for deemed planning permission granted for the works authorised by the Order to be specific planning permission for the purposes of planning legislation, including in relation to tree preservation orders and similar provisions applying to trees in conservation areas.

Article 49 of and **Schedule 10** to the Order make provisions relating to the apparatus of statutory undertakers on land acquired under the Order.

Article 50 contains provisions dealing with minerals underlying any land which is compulsorily acquired under the powers of the Order.

Article 51 is a saving for the powers of the highway authority.

Article 52 provides for the Executive to submit to the Secretary of State for certification the book of reference, the deposited sections and the works and land plans after the making of the Order.

Article 53 makes provisions as to the service of notices or other documents for the purposes of the Order.

Article 54 prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or any other rule of law.

Article 55 penalises the improper disclosure of information by persons entering land under **article 24 or 26**.

Article 56 provides that where a consent or approval necessary under the Order is not to be unreasonably withheld any question of whether it is so unreasonably withheld shall be determined by arbitration.

Article 57 provides for the method of arbitration where under the Order a dispute is to be settled by arbitration.

Article 58 modifies or amends certain legislative provisions of the Midland Metro Act 1989 (including the Road Traffic Regulation Act 1984 and the Tramways Act 1870 as applied by the 1989 Act) to Midland Metro Line 1 as constructed between Birmingham and Wolverhampton.

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Solicitors and Parliamentary Agents