



Midland Metro Act 1992

1992 CHAPTER vii

PART V

GENERAL

24 Authorisation of new level crossings

- (1) This section has effect for the authorisation of new level crossings on railways forming part of the Metro which are not tramways.
- (2) The Secretary of State may, by order made on the application of the Executive, authorise—
 - (a) the carrying of any such railway across and on the level of any highway laid out or constructed after the date on which application was made by the Executive for the enactment by which the railway was authorised; or
 - (b) the carrying of any highway laid out or constructed after the railway has been constructed, across and on the level of any such railway.
- (3) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.
- (4) Before making application to the Secretary of State for an order under this section to authorise a proposed level crossing, the Executive shall—
 - (a) consult the highway authority and the local planning authority;
 - (b) submit a draft of the order to the Secretary of State;
 - (c) publish at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the proposed level crossing would be situated, a notice—
 - (i) stating the general effect of the order as prepared in draft;
 - (ii) specifying a place in that locality where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and

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- (iii) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order; and
 - (d) publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph (c) above was published and the date of an issue containing the notice.
- (5) The Executive shall, at the request of any person, supply him with a copy of the draft order on payment of such charge as the Executive think reasonable.
- (6) The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Executive shall give and publish such additional notices, and in such manner, as the Secretary of State may require.
- (7) If before the end of the period of 28 days referred to in subsection (4) (c) above, or of 25 days from the publication in the London Gazette of the notice under subsection (4) (d) above, or of any period specified in notices under subsection (6) above, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft, or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—
- (a) cause a local inquiry to be held; or
 - (b) afford to the objector and to the Executive an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (n) (a) The Secretary of State may recover from the Executive payment of administrative costs reasonably incurred by the Department of Transport in connection with an application for an order under this section, subject to a maximum payment in respect of any such application of £5,000.
- (b) This subsection has effect without prejudice to the provisions of section 250 (4) of the Local Government Act 1972, as having effect in accordance with section 27 (2) of this Act, for the payment of costs incurred in relation to an inquiry or hearing, but costs recoverable under those provisions shall not be recoverable under this subsection.
- (c) This subsection shall cease to have effect on the coming into operation of any public general statutory provision for the authorisation, by means of orders made by the Secretary of State, of new level crossings on railways.
- (9) Subsection (3) of section 8 (Level crossings) of this Act shall apply to a level crossing authorised under this section as it applies to a crossing authorised by that section.

25 Railway at Handsworth authorised by Act of 1989

Notwithstanding anything in the Act of 1989 or shown on the deposited plans and sections referred to in that Act, the Executive may construct the railway authorised as Work No. 9 by that Act without a viaduct to take it over the siding of the Smethwick Railway referred to in the description of that work in Part I of Schedule 1 to that Act, so that that railway may be taken, within the limits of deviation (both lateral and vertical)

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for that work provided in the Act of 1989, over Booth Street by means of a bridge and on the level across the said siding.

26 Amendment of Act of 1989

(1) The Act of 1989 shall have effect subject to the following amendments consequential on the coming into operation of the relevant provisions of the Electricity Act 1989, the Water Industry Act 1991, the Water Resources Act 1991 and the Land Drainage Act 1991:—

- (a) In subsection (1) of section 2 (Interpretation)—
- (i) after the definition of “the railways board” there shall be inserted—
“sewerage undertaker” has the same meaning as in the Water Industry Act 1991”;
 - (ii) in the definition of “statutory undertakers”, for the words “the Central Electricity Generating Board, the Midlands Electricity Board, the water authority and the South Staffordshire Waterworks Company or any of them”, there shall be substituted the words “a licence holder under Part I of the Electricity Act 1989, the National Rivers Authority and a water undertaker within the meaning of the Water Industry Act 1991 or any of such bodies”; and
 - (iii) the definition of “water authority” shall be omitted;
- (b) In section 23 (Use of sewers, etc., for removing water)—
- (i) in subsections (1), (2) and (5), for the words “the water authority or a local authority” wherever occurring, there shall be substituted the words “the relevant authority”;
 - (ii) for subsection (3) (a) there shall be substituted the following:—
“(a) section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under this section into any controlled waters within the meaning given by section 104 of that Act as if this section were excluded from the reference to any local statutory provision mentioned in section 88 (1) (f) of that Act.”;
 - (iii) in subsection (3) (b), for the words “the main river of the water authority”, there shall be substituted the words “a main river”, for the words “section 116 of the Land Drainage Act 1976”, there shall be substituted the words “section 72 of the Land Drainage Act 1991” and the words from “or forming part” to the end of that paragraph shall be omitted;
 - (iv) in subsection (5), the words “, as the case may be,” shall be omitted; and
 - (v) after subsection (5) there shall be inserted the following:—
“(6) In this section “relevant authority” means a sewerage undertaker, the National Rivers Authority or a local authority.”;
- (c) In paragraph (1) of section 40 (For protection of public sewers), for the words “Schedule 19 of the Water Act 1989” there shall be substituted the words “the Water Industry Act 1991” and for the definition of “sewerage authority”, there shall be substituted:—

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“‘sewerage authority’ means a sewerage undertaker and any local authority which is a relevant authority for the purposes of section 97 of the Water Industry Act 1991”;

- (d) In paragraph (1) of section 41 (For protection of certain statutory undertakers), in the definition of “apparatus”—
- (i) for paragraph (a) there shall be substituted—
 - “(a) electric lines or electrical plant within the meaning of Part I of the Electricity Act 1989 belonging to or maintained by licence holders under Part I of that Act;” and
 - (ii) in paragraph (c) for the words “the water authority or the South Staffordshire Waterworks Company”, there shall be substituted the words “a water undertaker”.
- (2) Section 23 of the Act of 1989, as that section has effect in accordance with subsection (1) (b) above, is set out in Schedule 7 to this Act.

27 Local inquiries

- (1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.
- (2) Subsection (4) of the said section 250 shall apply—
- (a) in accordance with subsection (1) above, in relation to such local inquiries as are held with respect to any order under this Act as if the reference to a local authority in that subsection were a reference to the Executive; and
 - (b) in relation to any hearing arranged in pursuance of section 24 (7) (b) of this Act as if any reference in the said subsection (4) to a local authority were a reference to the Executive and any reference in that subsection to an inquiry included reference to such a hearing and as if, in the case of a hearing, the words “or party to the inquiry” and the words “or person”, in both places where they occur, were omitted.

28 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.

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

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- (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).