
STATUTORY INSTRUMENTS

2001 No. 3627

**TRANSPORT AND WORKS,
ENGLAND TRANSPORT, ENGLAND**

The South Hampshire Rapid Transit Order 2001

Made - - - - *3rd July 2001*

Coming into force - - *24th July 2001*

Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under sections 6, 7 and 10 of the Transport and Works Act 1992(2) (“the 1992 Act”), for an Order under sections 1, 3 and 5 of the 1992 Act;

And whereas the Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act;

And whereas the Secretary of State, having considered 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 his opinion do not make any substantial change in the proposals;

And whereas the Secretary of State is satisfied that the provision of an alternative right of way for each of the streets mentioned in Part II of Schedule 4 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 11th May 2001;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1, 3 and 5 of, and paragraphs 1 to 5 and 7 to 17 of Schedule 1 to, the 1992 Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the South Hampshire Rapid Transit Order 2001 and shall come into force on 24th July 2001.

(1) S.I. 1992/2902.
(2) 1992 c. 42.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1965 Act” means the Compulsory Purchase Act 1965⁽³⁾;

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁴⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991⁽⁵⁾;

“authorised guided busway” means the authorised guided busway forming part of Work No 8;

“authorised street tramway” means any street tramway authorised by this Order;

“authorised tramroad” means any tramroad authorised by this Order;

“authorised transit system” means the transit system (consisting of the authorised guided busway, the authorised street tramways and the authorised tramroads) authorised by this Order or any part of that system;

“authorised works” means the scheduled works and any other works authorised by this Order;

“the book of reference” means the book of reference (incorporating a schedule of subsoil interests) certified by the Secretary of State as the book of reference for the purposes of this Order;

“carriageway” has the same meaning as in the Highways Act 1980⁽⁶⁾;

“cycletrack” means a way over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988)⁽⁷⁾ with a right of way on foot;

“guided busway” means a way provided for the use of vehicles which are constructed or adapted to carry more than eight passengers for hire or reward and use a mode prescribed in article 2(e), (f), (g) or (h) of the Transport and Works (Guided Transport Modes) Order 1992⁽⁸⁾;

“the harbour” means the whole of Portsmouth harbour below the level of mean high-water springs;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980;

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 6(1)(a) and (2);

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“mooring” means any buoy, pile, pontoon, chain or other apparatus used for the mooring of vessels;

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“parking place” has the same meaning as in section 32 of the 1984 Act;

(3) 1965 c. 56.

(4) 1984 c. 27.

(5) 1991 c. 22.

(6) 1980 c. 66.

(7) 1988 c. 52.

(8) S.I. 1992/3231, amended by S.I. 1997/1951.

“Queen’s Harbour Master” means the person appointed to be Queen’s Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865⁽⁹⁾;

“Railtrack” means Railtrack PLC and includes any person who derives title to any property from Railtrack PLC and holds that property for railway purposes;

“rapid transit vehicle” means a tramcar or a vehicle guided by means of the guidance system of a guided busway;

“reserved track tramway” means any section of a street tramway laid along part of a street which vehicles other than tramcars are deterred or prevented from using;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“the sections” means the sections certified by the Secretary of State as the sections for the purposes of this Order;

“street” includes part of a street;

“street authority” in relation to a street, has the same meaning as in Part III of the 1991 Act;

“street tramway” means any part of a transit system which is laid along a street—

- (a) whether or not the section of the street in which its rails are laid may be used by other traffic, or
- (b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984⁽¹⁰⁾;

“tidal work” means so much of any work as is on, over or under tidal waters or tidal land below the level of mean high-water springs;

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

“tramroad” means any part of a transit system which is not a street tramway or a guided busway;

“transit services” means passenger services utilising the authorised transit system;

“transit system” means a system of transport consisting of a guided busway, a street tramway or a tramroad or any combination of those modes of transport;

“the tribunal” means the Lands Tribunal;

“the tunnel” means Work No. 8A;

“tunnel area” means so much of the land lying within the limits of deviation and the limits of land to be used shown on the works plans as is situated in the harbour;

“the undertaker” means Hampshire County Council and Portsmouth City Council acting jointly or, in the case of any provision contained in Part III of this Order, jointly or severally;

“vehicle” includes mobile traction unit; and

“the works plans” means the plans certified by the Secretary of State as the works 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 on land or in the air-space over its surface.

(3) Unless the context otherwise requires, any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

⁽⁹⁾ 1865 c. 125 (28 & 29 Vict).

⁽¹⁰⁾ 1984 c. 12.

(4) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the works plans.

(5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

Application of enactments relating to railways

3.—(1) The provisions of the Regulation of Railways Acts 1840 to 1893 shall not apply in relation to the authorised transit system.

(2) The provisions of the Highway (Railway Crossings) Act 1839⁽¹¹⁾ shall not apply in relation to the authorised transit system.

(3) Nothing in this article shall be taken as affecting the application to the authorised tramroads of sections 32 to 34 of the Offences Against the Person Act 1861⁽¹²⁾.

Application of 1991 Act

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part III of the 1991 Act (street works) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works), or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the Highways Act 1980⁽¹³⁾ (dual carriageways and roundabouts).

(2) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(3) The provisions of the 1991 Act mentioned in paragraph (4) below which together with other provisions of that Act apply in relation to the execution of street works and any regulations made or code of practice issued or approved under those provisions, shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the undertaker under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (3) above are:—

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 57 (notice of emergency works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);

⁽¹¹⁾ 1839 c. 45.

⁽¹²⁾ 1861 c. 100.

⁽¹³⁾ 1980 c. 66.

section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation);
section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

- (5) Nothing in article 14 of this Order shall—
- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act; or
 - (b) have effect in relation to street works with regard to which the provisions of Part III of the 1991 Act apply.

PART II WORKS PROVISIONS

Principal powers

Power to construct works

5.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 6 below, the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (6) below, the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the scheduled works, namely—

- (a) stations, platforms and stopping places;
- (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised transit system;
- (c) works for the strengthening, alteration or demolition of any building or structure;
- (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables;
- (e) works to alter the course of, or otherwise interfere with, rivers, streams or watercourses;
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works; and
- (g) replacement facilities and works for the benefit or protection of premises affected by the other authorised works.

(4) Subject to paragraph (6) below, the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the scheduled works.

(5) The undertaker may remove any works constructed by it pursuant to this Order which have been constructed as temporary works or which it no longer requires.

- (6) Paragraphs (3) and (4) above shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation for the scheduled works shown on the works plans;

- (b) within the boundaries of any street along which the construction of a street tramway is shown on the works plans or which has a junction with such a street; or
- (c) on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule.

Power to deviate

6.—(1) In constructing or maintaining any of the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works plans within the limits of deviation for that work shown on those plans; and
- (b) deviate vertically from the levels shown on the sections—
 - (i) to any extent not exceeding 3 metres upwards; and
 - (ii) to any extent downwards.

(2) In constructing or maintaining any work or part of a work shown on the works plans as being situated in a street and for which no limits of deviation are shown on that plan the undertaker may deviate laterally within the boundaries of that street.

(3) The undertaker may in constructing or maintaining any of the authorised street tramways lay down—

- (a) double lines of rails in lieu of single lines;
- (b) single lines of rails in lieu of double lines;
- (c) interlacing lines of rails in lieu of double or single lines; or
- (d) double or single lines of rails in lieu of interlacing lines.

(4) The power in paragraph (3) above shall not be exercised in the case of any authorised street tramway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker may in constructing and maintaining any of the authorised tramroads provide within the limits of deviation for those tramroads such number of lines of rails and sidings as may be necessary or expedient.

Designation of works

7.—(1) Notwithstanding anything in the description of scheduled works contained in Schedule 1 to this Order, the whole or any part of an authorised street tramway or authorised tramroad may be constructed within the limits of deviation for that work either along a street as a street tramway or off-street as a tramroad and shall be treated for the purposes of this Order as if it were so designated.

(2) Where, by means of the creation or extinction of rights of way, any part of the authorised transit system which has been constructed as a tramroad becomes a street tramway or any part which was constructed as a street tramway becomes a tramroad, it shall be treated for the purposes of this Order as if it were so designated.

Streets

Power to alter layout of streets

8.—(1) The undertaker may alter the layout of any street specified in columns (1) and (2) of Schedule 3 to this Order in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) above but subject to paragraph (3) below, the undertaker may for the purpose of constructing, maintaining or using any authorised street tramway alter the layout of the street along which the street tramway is or is to be laid and the layout of any street having a junction with such a street; and, without prejudice to the generality of the foregoing, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycletrack or verge;
- (c) reduce the width of the carriageway of the street by forming a reserved area in the street as a stopping place for rapid transit vehicles or by carrying out other works for that purpose;
- (d) carry out works for the provision or alteration of parking places;
- (e) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999(14) and which are carried out in compliance with those Regulations;
- (f) carry out works to the carriageway of the street for the purpose of deterring or preventing vehicles other than rapid transit vehicles from passing along the transit system; and
- (g) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) above shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld.

Power to keep apparatus in streets

9.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised transit system, place and maintain in any street in which the transit system is or is to be laid and in any street having a junction with such a street any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(15); and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

Power to execute street works

10.—(1) The undertaker may, for the purpose of exercising the powers conferred by article 9 above and the other provisions of this Order, enter upon any street in which the authorised transit system is or is to be laid and any street having a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) This article is subject to paragraph 3 of Schedule 11 to this Order.

(14) S.I. 1999/1026.

(15) 1989 c. 29.

Stopping up of streets

11.—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Parts I and II of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of Parts I and II of that Schedule.

(2) No street specified in columns (1) and (2) of Part I of Schedule 4 to this Order (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article until the new street to be substituted for it, and which is specified in relation to it by reference to one of the scheduled works in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use.

(3) No street specified in columns (1) to (3) of Part II of Schedule 4 to this Order (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) below is satisfied in relation to all the relevant land; and for this purpose “relevant land” means any land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) above is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article the undertaker may, without making any payment, appropriate and use for the purposes of its transit system undertaking so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(6) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(16).

(7) This article is subject to paragraph 2 of Schedule 11 to this Order.

Temporary stopping up of streets

12.—(1) The undertaker may, during and for the purposes of the execution of the authorised works, temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3) below, prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1) above, the undertaker may use any street stopped up under the powers of this article as a temporary working site.

(3) The undertaker shall provide at all times reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1) above, the undertaker may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 4 and in columns (1) and (2) of Schedule 5 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of those Schedules.

(5) The undertaker shall not exercise the powers of this article—

(16) 1961 c. 33.

- (a) in relation to any street specified as mentioned in paragraph (4) above, without first consulting the street authority; and
 - (b) in relation to any other street, without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (6) This article is subject to paragraph 3 of Schedule 11 to this Order.

Access to works

13. The undertaker may, for the purposes of the scheduled works, form and lay out means of access or improve existing means of access in such locations within the limits of deviation as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

Construction and maintenance of new or altered streets

14.—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Paragraphs (1) and (2) above do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any tramroad of the undertaker.

Construction of bridges and tunnels

15. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a tramroad shall be constructed in accordance with plans and specifications approved by the highway authority, but such approval shall not be unreasonably withheld.

Restoration of streets if street tramway discontinued

16. If the undertaker permanently ceases to operate any of the authorised street tramways (“the discontinued tramway”), it shall as soon as reasonably practicable and unless otherwise agreed with the street authority—

- (a) remove from any street in which the discontinued tramway is laid the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the street authority, the portion of the street along which the discontinued tramway was laid regard being had to the condition of the street before the tramway was laid.

Agreements with street authorities

17.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a tramroad) under the powers conferred by this Order;
- (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under a tramroad;
- (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or

- (d) the execution in the street of any of the works referred to in article 10(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
 - (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Level crossings

18.—(1) The undertaker may construct the authorised transit system so as to carry it on the level across the highways specified in Parts I and II of Schedule 6 to this Order.

(2) The undertaker may provide, maintain and operate at or near any new level crossing such barriers or other protective equipment as the Secretary of State may in writing approve.

(3) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access shall be treated for the purposes of section 64(4) of the 1984 Act as having been placed as provided by that Act.

(4) Without prejudice to the generality of article 8 above, the undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 6 to this Order.

(5) The highway authority may enter into agreements with the undertaker with respect to the construction and maintenance of any new level crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(6) In this article—

“barrier” includes gate;

“new level crossing” means the place at which an authorised tramroad crosses a highway on the level under the powers conferred by this article; and

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

Incorporation of railways

Agreements with Railtrack

19.—(1) The undertaker and Railtrack may enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Railtrack relating to any railway property.

(2) Where agreement is made for the transfer to the undertaker of any railway of Railtrack under paragraph (1) above, or the undertaker otherwise purchases any such railway or sufficient rights therein, the undertaker may adapt for use (including, where required, duplications of any existing rails), maintain, use and work that railway as part of the authorised transit system.

As to local railway enactments

20.—(1) Section 13 (new level crossing at Fareham, Hampshire) of the British Railways (No. 2) Act 1984⁽¹⁷⁾ shall cease to have effect on the transfer to the undertaker of Railtrack’s interest in the level crossing at Newgate Lane.

(2) The Portsmouth Branch Railway Act 1839⁽¹⁸⁾ shall cease to have effect in its application to all those parts of the Gosport railway within the limits of deviation.

(3) Any other local enactment which makes provision in relation to any part of the Gosport railway or any other railway within the limits of deviation shall have effect subject to the provisions of this Order.

(4) In this article “the Gosport railway” means the railway or former railway extending from the southern side of The Avenue in Fareham to Gosport.

The Tunnel

Additional powers for tunnel

21.—(1) Without prejudice to the other powers conferred by this Order or otherwise available to it, the undertaker may within the tunnel area for the purposes of or in connection with the construction or maintenance of the tunnel and notwithstanding any interference thereby with any public or private rights—

- (a) alter, relocate or replace any tidal work,
- (b) carry out excavations and clearance, dredging, deepening, dumping and pumping operations,
- (c) use, appropriate and dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995⁽¹⁹⁾) obtained by it in carrying out any such operations,
- (d) remove or relocate any mooring,
- (e) remove and, relocate any vessel or structure sunk, stranded or abandoned or moored or left (whether lawfully or not),
- (f) temporarily moor or anchor vessels and structures,
- (g) temporarily alter, interfere with, occupy and use the banks, bed, foreshores, waters and walls of the harbour,
- (h) construct, place, maintain and remove temporary works and structures,

in such manner and to such extent as may appear to it to be necessary or convenient.

(2) Except in the case of urgency, the undertaker will use its reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel or structure affected by the proposal to exercise the powers of paragraph (1)(d) or (e) above before the exercise of that power.

Prohibitions within tunnel area

22.—(1) Notwithstanding anything in any other enactment or rule of law but subject to the provisions of this article and paragraph 10 of Schedule 7, the Queen’s Harbour Master shall, at the request of the undertaker and at the undertakers’ expense, at any time when it appears to the undertaker necessary or convenient for the purposes of the construction or maintenance of the tunnel,

⁽¹⁷⁾ 1984 c. xx.

⁽¹⁸⁾ 1839 c. xxviii.

⁽¹⁹⁾ 1995 c. 21.

by direction close the whole or any part of the tunnel area to navigation by all vessels or by any class of vessel.

(2) Subject to paragraph (3)—

- (a) a direction under paragraph (1) above shall specify the duration of the closure, the part of the harbour affected and the vessels to which it applies; and
- (b) the written consent of the Secretary of State shall be required to the giving of any direction which prohibits, or has the effect of prohibiting, the passage of any vessel through the tunnel area—
 - (i) whether in combination with any other direction already given (other than any which are abandoned) or not, at any time other than during six 29 hour periods each commencing at 2300; or
 - (ii) after 0700, during any of those six 29 hour periods, for more than three periods each of which shall be no longer than three hours and shall be separated from any other such period by an interval of no less than three hours.

(3) The duration of a closure under this article may be extended by the Queen's Harbour Master until he is satisfied that any navigation channel to be opened following the closure has adequate depth and is free of obstruction.

(4) A person may not, without the written consent of the undertaker, within any part of the tunnel area, during a period when it is closed to navigation under this article—

- (a) navigate any vessel or cause or permit a vessel to be moored if the vessel concerned is subject to the closure,
- (b) lay down or place any mooring or apparatus, including mains, sewers, drains and cables, or
- (c) undertake or cause or permit any other operation or activity,

unless he does so in compliance with any direction which the Queen's Harbour Master has given either in an emergency or for military operational requirements which the Queen's Harbour Master is satisfied it is not reasonably practicable to fulfil at any other time.

(5) Any person who contravenes the requirements of paragraph (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Except in an emergency, the Queen's Harbour Master shall at the undertaker's expense publish notice of any direction given under paragraph (1) in a newspaper circulating in the city of Portsmouth not less than 14 days before the direction is to take effect.

(7) In making a request pursuant to paragraph (1), the undertaker shall ensure that no more of the tunnel area is closed to navigation at any time by all vessels, or by any class of vessel, than is at that time necessary in the circumstances.

(8) If complete closure of the tunnel area to all vessels or to any particular class of vessels is necessary at any time, the undertaker shall take all reasonable steps to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the tunnel area.

(9) Without prejudice to the provisions of article 36 (application of Part I of the Compulsory Purchase Act 1965) neither the undertaker nor the Queen's Harbour Master shall be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the tunnel area under this article.

(10) A direction given under this article may be varied or revoked by a subsequent direction given under this article.

Protection of tunnel, etc.

23.—(1) A person may not without the consent in writing of the undertaker (which may be given subject to conditions)—

- (a) use, for the purpose of landing or embarking persons or landing or loading goods from or into any vessel, the tunnel, any of the tunnel units, any tunnel approach works or any work constructed for the purposes of or in connection with the tunnel pursuant to this Order;
- (b) interfere with the tunnel, any of the tunnel units, any tunnel approach works or any backfilling or scour protection provided for the purposes of or in connection with the tunnel;
- (c) remove, move or otherwise interfere with any such work or any machinery, apparatus, tools or other things in use or intended for use in constructing the tunnel; or
- (d) moor any vessel within 50 metres (measured horizontally) of the tunnel.

(2) A person who without reasonable excuse contravenes paragraph (1) above, or fails to comply with any conditions attached to a consent given by the undertaker under that paragraph, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In this paragraph—

“tunnel approach works” means works for providing access to the tunnel on either side of the river; and

“tunnel units” means sections of concrete, steel or other material (or combination of materials) designed to be attached together so as to constitute the framework of the tunnel.

As to Portsmouth to Gosport ferry, etc.

24.—(1) Subject to paragraphs (2) and (3) below and except as may otherwise be agreed in writing between the undertaker and the harbour company, if the undertaker in exercising its powers under article 35, article 42 or any other provision of this Order, takes possession of the Portsea landing-place or the site of the Portsea landing-place, it shall assume and may exercise, until such time as it may by agreement with the harbour company permanently reinstate or replace the Portsea landing-place to the reasonable satisfaction of the harbour company, all of the powers conferred upon the harbour company by the Portsea Harbour Company Act 1984⁽²⁰⁾ in relation to the landing-place and shall be subject to all the restrictions, liabilities and obligations in relation to the landing-place to which the harbour company is subject and shall perform the functions of the harbour company under the Act.

(2) Part I of Schedule 2 (protection of British Railways Board and Sealink U.K. Limited) to the Portsea Harbour Company Act 1984 shall not apply during any period during which the undertaker has assumed responsibility for the Portsea landing-place pursuant to paragraph (1) or otherwise in relation to anything done under this Order.

(3) Notwithstanding anything in the Portsea Harbour Company Act 1984 or any other enactment or rule of law, the undertaker may, during any period when it has assumed responsibility for the Portsea landing-place pursuant to paragraph (1) above and upon giving not less than 28 days' notice in a newspaper circulating in the area (which notice may be given in advance of the undertaker assuming responsibility for it), temporarily close the whole or any part of the Portsea landing-place for the purposes of or in connection with the construction of the authorised works.

(4) Section 6 (limits of jurisdiction) of the Portsea Harbour Company Act 1984 shall be amended as follows—

- (a) in section 2 (interpretation), the definition of “the signed plan” shall be omitted;

(20) 1984 c. xviii.

- (b) in subsection (1) of section 6 (limits of jurisdiction), the words “the area which is shown coloured pink on the signed plan and which is” shall be omitted and, at the end, there shall be inserted the words “but excluding any part of that area within 15 metres of any part of Work No 8A of the South Hampshire Rapid Transit Order 2001 as the same is constructed.”

(5) Schedule 2 (protective provisions) of the Portsea Harbour Company Act 1984 shall be amended by the insertion at the end of the following new Part—

“PART III

FOR PROTECTION OF TUNNEL

Nothing in this Act shall authorise the harbour company to do anything, or permit anything to be done, to or affecting the tunnel authorised by the South Hampshire Rapid Transit Order 2001 or any land vested in the undertaker (as defined in that Order) in connection with that tunnel, without the consent in writing of the undertaker.”.

(6) In section 48 (management of ferry works and lands, etc.) of the Hampshire Act 1983⁽²¹⁾, for the words “the ferry service” there shall be substituted the words “the provision of passenger transport services across Portsmouth harbour”.

(7) Without prejudice to any other power available to it, the undertaker may operate or secure the operation of ferry services across the harbour—

- (a) in connection with the construction of the tunnel, in so far as the construction or proposed construction of the tunnel adversely affects the availability of ferry services across the harbour; and
- (b) in connection with the operation of the tunnel, at any time when the tunnel is not available for the operation of transit services or is subject to limitations upon the operation of transit services.

(8) The undertaker may do anything which in its opinion is necessary or convenient for the purposes of the ferry services across the harbour and, without prejudice to the generality of the foregoing, may demand, take and recover or waive charges for the use of any such service.

(9) Notwithstanding anything in section 16 (appropriation of part of landing place) of the Portsea Harbour Company Act 1984 or any other enactment but subject to payment of any charges which are ordinarily applicable, the undertaker may use the Portsea landing-place and any other public landing stage or structure for the purposes of any ferry service provided under paragraph (7).

(10) Nothing in paragraph (7) above shall authorise the undertaker to provide a ferry service—

- (a) from the Portsea landing-place, or any other public landing stage or structure or any temporary replacement for any such facility, to the exclusion of any public scheduled ferry service across the harbour provided by any person at the time of the making of this Order or which, thereafter, has been let to a person under section 49 of the Hampshire Act 1983 (power to establish or assist a ferry service, etc.); or
- (b) unless and until any person providing such a service has ceased to provide a service which is reasonably sufficient or the undertaking of such person has been acquired by agreement by a local authority either under the Ferries (Acquisition by Local Authorities) Act 1919⁽²²⁾ or otherwise.

(11) In this article “the harbour company” and “the Portsea landing-place” mean the harbour company and the landing-place as respectively defined in the Portsea Harbour Company Act 1984.

(21) 1983 c. v.

(22) 1919 c. 75.

No apparatus in tunnel without consent

25. Notwithstanding anything contained in any other enactment, no person shall enter upon, break up or interfere with the tunnel or any part thereof for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of the undertaker and in accordance with such terms and conditions as the undertaker may determine.

Protection of navigation

26. Schedule 7 shall have effect.

Supplemental

Attachment of equipment to buildings for purposes of transit system

27.—(1) Subject to the following provisions of this article, the undertaker may affix to any building, other than an excepted building—

- (a) any brackets, cables, wires, insulators and other apparatus required in connection with the authorised transit system; and
- (b) any lamps, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting in consequence of the construction of the authorised transit system.

(2) The undertaker shall not under this article affix any apparatus to a building without the written consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld.

(3) Where—

- (a) the undertaker serves on the relevant owner of a building a notice requesting the owner's consent to the affixing of specified apparatus to the building, and
- (b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give his consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld.

(4) Where, in the opinion of the undertaker, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may apply to the magistrates' court, who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or may disallow the application.

(5) Where apparatus is affixed to a building under this article—

- (a) any owner for the time being of the building may serve on the undertaker not less than 28 days' notice requiring the undertaker at its own expense temporarily to remove the apparatus during any reconstruction or repair of the building if such removal is reasonably necessary for that purpose; and
- (b) the undertaker shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The undertaker shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1)

and (5)(b) above; and any dispute as to a person's entitlement to compensation, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961⁽²³⁾.

(7) In this article—

“building” includes any structure and a bridge or aqueduct over the street;

“excepted building” means any building existing at the time of this Order at—

26 and 33 Hartland's Road, 158 Redlands Lane and 115/117, 131, 147, 149, 153, 183, 192 and 203 West Street;

3 and 14 Carlyle Road, 5 Ford Road, 9 Forton Road and 21 St Ann's Crescent, Gosport; and

1 to 5 and 61 Queen Street, Portsmouth; and

“relevant owner”—

- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the occupier of the building; and
- (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.

Discharge of water

28.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits of deviation shown on the works plans or in any street along which any authorised street tramway is authorised to be laid, make openings into, and connections with, the watercourse, sewer or drain.

(2) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The undertaker shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(5) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991⁽²⁴⁾.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, or a harbour authority within the meaning of the Harbours Act 1964⁽²⁵⁾;

⁽²³⁾ 1961 c. 33.

⁽²⁴⁾ 1991 c. 57.

⁽²⁵⁾ 1964 c. 40.

- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Safeguarding works to buildings

29.—(1) Subject to the following provisions of this article, the undertaker may, at its own expense and from time to time, carry out such safeguarding works to any building lying within the limits of deviation or on the lands numbered 16/12 and 16/13 on the land plans as the undertaker considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction, in the vicinity of the building, of any part of the authorised works (other than works authorised by this article); or
- (b) after the completion of the construction of that part of the authorised works (other than works authorised by this article), at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this article to a building the undertaker may (subject to paragraphs (5) and (6) below)—

- (a) enter the building and any land belonging to it, and
- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) above to carry out safeguarding works to a building,
- (b) a right under paragraph (3) above to enter a building,
- (c) a right under paragraph (4)(a) above to enter a building or land, or
- (d) a right under paragraph (4)(b) above to enter land,

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and in a case falling within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 71 below.

(7) The undertaker shall compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) safeguarding works are carried out under this article to a building, and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

the undertaker shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without prejudice to article 70, nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) above shall be determined, in case of dispute, under Part I of the Land Compensation Act 1961(26).

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection; and
- (b) “safeguarding works”, in relation to a building, means—
 - (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works;
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and
 - (iii) any works the purpose of which is to secure the safe operation of the transit system or to prevent or minimise the risk of such operation being disrupted.

Power to construct temporary transit systems

30.—(1) The undertaker may, if it considers it necessary or expedient in consequence of any works executed or proposed to be executed in a street along which an authorised street tramway is constructed—

- (a) remove or discontinue the operation of the authorised street tramway; and
- (b) lay, maintain and operate in or near to that street a temporary transit system in lieu of the authorised street tramway.

(2) The powers conferred by this article may only be exercised with the consent of the highway authority but such consent shall not be unreasonably withheld.

(3) The provisions of article 53 below shall apply in relation to temporary transit systems laid under this article as they apply in relation to authorised street tramways.

Planning permission: supplementary matters

31. Planning permission which is deemed by virtue of a direction under section 90(2A) of the Town and Country Planning Act 1990(27) to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the Town and Country Planning Act 1990.

Power to survey and investigate land

32.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land within the limits of deviation shown on the works plans or in any street along which any authorised street tramway is authorised to be laid;

(26) 1961 c. 33.

(27) 1990 c. 8.

- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) without prejudice to the generality of sub-paragraph (a) above, carry out archaeological investigations on any such land;
 - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d) above.
- (2) No land may be entered, or equipment placed or left on or removed from the land, under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the undertaker—
- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
 - (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (5) The undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(28).
- (6) Nothing in this article shall obviate the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(29).

Mode of construction and operation of transit system

- 33.**—(1) The authorised transit system shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.
- (2) The authorised street tramway and authorised tramroad shall be constructed on a nominal gauge of 1,435 millimetres.
- (3) Except with the consent of the street authority (which shall not be unreasonably withheld) the authorised street tramways (other than any reserved track tramways) shall be so constructed and maintained as to ensure that the uppermost surface of the rails is level with the surrounding surfaces of the street in which they are laid.

Obstruction of construction of transit system

- 34.** Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(28) 1961 c. 33.

(29) 1979 c. 46.

PART III ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

35.—(1) The undertaker may acquire compulsorily—

- (a) so much of the land shown on the land plans within the limits of deviation for the scheduled works shown on the works plans and described in the book of reference as may be required for the purposes of the authorised works, and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule,

and may use any land so acquired for those purposes or for any other purposes connected with, or ancillary to, its transit system undertaking.

(2) This article is subject to article 40(2) and article 41(8) below.

(3) The undertaker shall not under the powers of this Order acquire compulsorily any interest in the land numbered 1/1, 1/14, 1/15, 1/16, 1/18, 1/19, 1/20, 1/21, 1/27, 8/9, 8/10, 8/11, 11/7, 12/3, 12/4, 13/13 and 15/10 in the book of reference.

Application of Part I of Compulsory Purchase Act 1965

36.—(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(30) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if—

- (a) 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; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—

- (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month; or

- (ii) in any other case, a reference to notice of 3 months.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

37.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(31) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(30) 1981 c. 67.

(31) 1981 c. 66.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below 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 the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”, and after “given” there shall be inserted “and published”.

(5) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he 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” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

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

(8) References to the Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 36 above.

Powers to acquire new rights

38.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 35 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 8 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 8 to this Order shall have 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 article of a right over land by the creation of a new right.

Powers to acquire subsoil only

39.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 35 above as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of the subsoil of land under paragraph (1) above the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent article 44 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Rights under or over streets

40.—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the 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 connected with or ancillary to its transit system undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street and, except in relation to a street which is subject to stopping up pursuant to article 11 above, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) above is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

(4) Paragraph (2) above shall 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.

Temporary possession of land

Temporary use of land for construction of works

41.—(1) The undertaker may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 9 to this Order for the purpose specified in relation to that land in columns (3) and (4) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 9 to this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961⁽³²⁾.

(32) 1961 c. 33.

(7) Without prejudice to article 70 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5) above.

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) above except that the undertaker shall not be precluded from—

- (a) acquiring new rights over any part of that land under article 38 above; or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 39 above.

(9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) In this article “building” includes structure or any other erection.

Temporary use of land for maintenance of works

42.—(1) At any time during the maintenance period relating to any of the scheduled works, the undertaker may—

- (a) enter upon and take temporary possession of any land within the limits of deviation and lying within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) above shall not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person’s entitlement to compensation under paragraph (6) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961.

(8) Without prejudice to article 70 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6) above.

(9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.

(10) In this article—

- (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use;
- (b) “building” includes structure or any other erection; and
- (c) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

Compensation

Disregard of certain interests and improvements

43.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land, or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) above “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Supplementary

Acquisition of part of certain properties

44.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 36 above) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or

- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice, but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and
- (b) that the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

Extinction or suspension of private rights of way

45.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or
- (b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act,

whichever is sooner.

(2) All private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the works plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961⁽³³⁾.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990⁽³⁴⁾ (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 11 to this Order applies.

Time limit for exercise of powers of acquisition

46.—(1) No notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 36 above, after the end of the period of 5 years beginning with the day on which this Order comes into force.

(2) The power conferred by article 41 above to enter upon and take temporary possession of land shall cease at the end of the period mentioned in paragraph (1) above; but this paragraph shall not prevent the undertaker remaining in possession of land in accordance with article 41 above after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART IV

OPERATION OF TRANSIT SYSTEM

Power to operate and use transit system

47.—(1) The undertaker may operate and use the authorised transit system and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraph (4) below and to article 59 below, the undertaker shall, for the purpose of operating the transit system, have the exclusive right—

- (a) to use the rails or other guidance, foundations, cables, masts, overhead wires and other apparatus used for the operation of the transit system; and
- (b) to occupy any part of the street in which that apparatus is situated.

(3) Any person who, without the consent of the undertaker or other reasonable excuse, uses the apparatus mentioned in paragraph (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Nothing in this article shall restrict the exercise of any public right of way over any part of a street in which apparatus is situated in pursuance of paragraph (2) above except to the extent that the exercise of the right is constrained by the presence of the apparatus.

⁽³³⁾ 1961 c. 33.

⁽³⁴⁾ 1990 c. 8.

Maintenance of approved works, etc.

48.—(1) Where pursuant to regulations made under section 41 of the Transport and Works Act 1992 (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised transit system, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised transit system.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Power to charge fares

49. The undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the authorised transit system, or for any other services or facilities provided in connection with the operation of the authorised transit system, as it thinks fit.

Disapplication of duties respecting provision of transport services

50. Section 63(7) of the Transport Act 1985⁽³⁵⁾ shall not apply to the undertaker in respect of transit services procured by it under this Order, and any service subsidy agreement relating to the operation of a transit service shall be excluded from section 89(1) of that Act.

Concessionary travel

51. Sections 93 to 102 and 112 of the Transport Act 1985 (which make provision for travel concession schemes) shall apply to transit services, notwithstanding that such services may not be eligible services as defined in section 94(4) of that Act.

Removal of obstructions

52.—(1) If any obstruction is caused to rapid transit vehicles using the authorised transit system by a vehicle waiting, loading, unloading or breaking down on any part of the transit system, the person in charge of the vehicle shall forthwith remove it; and if he fails to do so the undertaker may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

- (a) any person by whom the vehicle was put or left so as to become an obstruction to rapid transit vehicles; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not, at that time, concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to rapid transit vehicles using the authorised transit system by a load falling on the transit system from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the transit system; and if he fails to do so, the undertaker may take all reasonable steps to remove the load and may recover the expenses reasonably incurred in doing so from—

- (a) any person who was in charge of the vehicle at the time when the load fell from it; or

⁽³⁵⁾ 1985 c. 67; section 63 was amended by the Transport Act 2000 (c. 38), Schedule 11.

(b) any person who was the owner of the vehicle at that time unless he shows that he was not concerned in, or aware of, the vehicle being in the place at which the load fell from it.

(3) For the purposes of this article the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and in determining for those purposes who was the owner of the vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles Excise and Registration Act 1994⁽³⁶⁾.

Traffic signs

53.—(1) The undertaker may, for the purposes of, or in connection with the operation of, the authorised transit system, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of the 1984 Act or of a character authorised by the Secretary of State on any street in which the authorised transit system is laid or which gives access to such a street.

(2) The undertaker—

- (a) shall consult with the traffic authority as to the placing of signs; and
- (b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 of the 1984 Act, shall enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs shall include a power to give directions to the undertaker as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) above shall be exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on any street in which the authorised transit system is laid or which gives access to such a street shall consult with the undertaker as to the placing of any traffic sign which would affect the operation of the authorised transit system.

(5) Rapid transit vehicles shall be taken to be public service vehicles for the purposes of section 122(2)(c) of the 1984 Act.

(6) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

Traffic regulation

54.—(1) Subject to the provisions of this article, the undertaker may, for the purposes of the authorised transit system, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit or restrict the waiting or the loading or unloading of vehicles in the manner specified in Part I of Schedule 10 to this Order on those roads specified in column (2) and along the lengths and between the points specified in columns (3) and (4) of that Part of that Schedule;
- (b) authorise the use as a parking place in the manner specified in Part II of Schedule 10 to this Order of those roads specified in column (2) and along the lengths and between the points specified in column (3) and (4) of that Part of that Schedule;
- (c) make provision as to the direction of vehicular traffic in the manner specified in Part III of Schedule 10 to this Order on the roads specified in column (2) and as respects direction to the extent specified in column (3) of that Part of that Schedule;

(36) 1994 c. 22.

- (d) prohibit vehicular access in the manner specified in Part IV of Schedule 10 to this Order on those roads specified in column (2) and at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
 - (e) revoke any traffic regulation order in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.
- (2) The undertaker shall not exercise the powers of this article unless it has—
- (a) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may within 28 days of its receipt of notice of the undertakers' intention specify in writing.
- (3) Any prohibition, restriction or other provision made by the undertaker under sub-paragraph (1)(a), (c), (d) or (e) above shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings (in addition to those mentioned in Schedule 10) to which the prohibition, restriction or other provision is subject.
- (4) Any authorisation of a parking place made by the undertaker under sub-paragraph (1)(b) above shall have effect as if duly made by the local authority as an order under section 32 of the 1984 Act.

Power to lop trees overhanging transit system

55.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised transit system, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the transit system or any apparatus used for the purposes of the transit system; or
- (b) from constituting a danger to passengers or other persons using the transit system.

(2) In exercising the powers in paragraph (1) above, the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Nothing in this article shall be taken to affect the application of any tree preservation order made under section 198 of the Town and Country Planning Act 1990(37).

(4) Any dispute as to a person's entitlement to compensation under paragraph (2) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961(38).

Trespass on tramroads and busways

56.—(1) Any person who—

- (a) trespasses on any authorised tramroad or any part of the authorised guided busway which is not in a public highway, or
- (b) trespasses upon any land of the undertaker in dangerous proximity to the authorised tramroads or any part of the authorised guided busway which is not in a public highway or to any electrical or other apparatus used for or in connection with the operation of the authorised tramroads,

(37) 1990 c. 8.

(38) 1961 c. 33.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person shall be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass upon the tramroads was clearly exhibited and maintained at the station or other stopping place on the authorised transit system nearest the place where the offence is alleged to have been committed.

Power to make byelaws

57.—(1) The undertaker may make byelaws regulating the use and operation of, and travel on, the authorised transit system, the maintenance of order on the authorised transit system and on transit system premises or other facilities provided in connection with the authorised transit system and the conduct of all persons, including employees of the undertaker, while on the authorised transit system or on transit system premises.

(2) Without prejudice to the generality of paragraph (1) above, byelaws under this article may make provision—

- (a) with respect to tickets issued for travel on the authorised transit system, the payment of fares and charges and the evasion of payment of fares and charges;
- (b) with respect to interference with, or obstruction of, the operation of the authorised transit system or other facilities provided in connection with the authorised transit system;
- (c) with respect to access to and the carriage, use or consumption of anything on transit system premises;
- (d) with respect to the prevention of nuisances on transit system premises;
- (e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within transit system premises;
- (f) for the safe custody and re-delivery or disposal of any property accidentally left on transit system premises and for fixing the charges made in respect of any such property; and
- (g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised transit system or on transit system premises.

(3) In paragraphs (1) and (2) above references to “transit system premises” are references to premises of the undertaker used for or in connection with the operation of the authorised transit system including the tunnel, any depot or building and any rapid transit vehicle.

(4) Byelaws under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of paragraph (4) above, if the contravention of, or failure to comply with, any byelaw under this article is attended with danger or annoyance to the public, or hindrance to the undertaker in the operation of the transit system, the undertaker may summarily take action to obviate or remove the danger, annoyance or hindrance.

(6) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

(7) At least 28 days before applying for any byelaws to be confirmed under this article, the undertaker shall publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to the Secretary of State within a period specified in the notice, being a period of not less than 28 days.

(8) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment.

(9) The undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker may determine.

(10) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation; and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(11) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment, and the undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker shall determine.

(13) The production of a printed copy of byelaws confirmed under this article on which is endorsed a certificate purporting to be signed by a person duly authorised by the undertaker stating—

- (a) that the byelaws were made by the undertaker,
- (b) that the copy is a true copy of the byelaws,
- (c) that on a specified date the byelaws were confirmed by the Secretary of State, and
- (d) the date when the byelaws came into operation,

shall be prima facie evidence of the facts stated in the certificate.

Power to contract for police services

58.—(1) Agreements may be made—

- (a) between the undertaker and the chief officer of police of any police force and the police authority, or
- (b) between the undertaker and the Strategic Rail Authority,

for making available to the undertaker for the purposes of the operation of its transit system undertaking the services of members of the police force or, as the case may be, members of the British Transport Police Force on such terms as to payment or otherwise, and subject to such conditions, as the parties to them think fit.

(2) In this article—

- (a) “chief officer of police”, “police authority” and “police force” have the same meaning as in the Police Act 1964(39); and
- (b) “the British Transport Police Force” means the force organised under the British Transport Police Scheme 1963(40).

(39) 1964 c. 48.

(40) The British Transport Police Scheme 1963 is contained in the Schedule to the British Transport Police Force Scheme 1963 (Approval) Order 1964 (S.I. 1964/1456). The scheme was subsequently amended by the British Transport Police Force Scheme 1963 (Amendment) Order 1992 (S.I. 1992/364) and continues in force, as if made under section 132 of the Railways Act 1993 (c. 43), by virtue of paragraph 3(2) of Schedule 10 to that Act. The scheme was subsequently further amended by the British Transport Police Force Scheme 1963 (Amendment) Order 1994 (S.I. 1994/609) and the text of the scheme, as amended, is set out in the Schedule to that Order.

Powers of disposal, agreements for operation, etc.

59.—(1) The undertaker may, in the case of the authorised transit system with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the authorised works under this Order.

(2) Without prejudice to the generality of paragraph (1) above, the undertaker may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part or parts of them, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the undertaker or any other person.

(3) Any agreement under subsection (2) above may provide for the exercise of the powers of the undertaker in respect of the authorised works or any part thereof, and for the transfer to any person of the authorised works or any part thereof together with the rights and obligations of the undertaker in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1) above, or any agreement under paragraph (2) above, shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

Application of landlord and tenant law

60.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised transit system or the right to operate the same, and any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised transit system, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Tramcars deemed to be public service vehicles

61.—(1) On such day as may be appointed under paragraph (2) below, regulations made, or having effect as if made, under sections 24, 25 or 60(1)(j) or (k) of the Public Passenger Vehicles Act 1981⁽⁴¹⁾ shall have effect as if the tramcars used on the authorised transit system were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.

(41) 1981 c. 14.

- (a) (2) (a) The undertaker may by resolution appoint a day for the purpose of any regulation mentioned in paragraph (1) above, the day so appointed being fixed in accordance with sub-paragraph (b) below.
- (b) The undertaker shall publish in a newspaper circulating in its area, notice—
- (i) of the passing of any such resolution and of the day fixed thereby; and
 - (ii) of the general effect of the enactments for the purposes of which the day has been fixed;
- and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.
- (c) A photostatic or other reproduction certified by the secretary of the undertaker to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in sub-paragraph (b) above shall be evidence of the publication of the notice and of the date of publication.

Substitute road services

62.—(1) The undertaker may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the transit system has been temporarily interrupted, curtailed or discontinued.

(2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.

(3) Section 6 of the Transport Act 1985(42) shall not apply to any substitute services.

PART V

PROTECTIVE PROVISIONS

Statutory undertakers, etc.

63. The provisions of Schedule 11 to this Order shall have effect.

Protection of railway interests

64. The provisions of Schedule 12 to this Order shall have effect.

Minerals

65. Nothing in this Order shall affect the right of any person entitled to any mine or minerals of any description whatsoever under a street along which any authorised street tramway is laid to work the mine or get the minerals; but this shall not affect any liability (whether civil or criminal) of the person so entitled in respect of damage to the authorised street tramway resulting from the exercise of any such right.

Saving for highway authorities

66. Nothing in this Order shall affect any power of a highway authority to widen, alter, divert or improve any highway along which a street tramway is laid.

PART VI

MISCELLANEOUS AND GENERAL

Disclosure of confidential information

67. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 29 or article 32 above, and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

Certification of plans, etc.

68. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections, the land plans and the works plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

69.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978⁽⁴³⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and
- (b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it), and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

(43) 1978 c. 30.

No double recovery

70. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

71. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) 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.

Signed by authority of the Secretary of State

Ellis Harvey
Head of the Transport and Works Processing
Unit,
Department of Transport, Local Government and
the Regions

3rd July 2001

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

SCHEDULES

SCHEDULE 1

Article 5

SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
Borough of Fareham	Work No. 1	A street tramway 739 metres in length (single line) extending from the roundabout at the junction of Western Way and West Street along West Street to a point on the south side of West Street, opposite Westbury Road
	Work No. 2	A tramroad 141 metres in length (single line) extending from its junction with the termination of Work No. 1, through the car park and Fareham Bus Station on the north eastern side of Hartland's Road to a point at the southern end of the bus station
	Work No. 3	A street tramway 94 metres in length (single line) extending from its junction with the termination of Work No. 2, along Hartland's Road and Western Road to a point at the front of No. 4 Western Road
	Work No. 4	A street tramway 742 metres in length (single line including a short passing bay) extending from its junction with the termination of Work No. 3, along the northern side of Western Way to the roundabout at the junction of Western Way and West Street
	Work No. 4A	Extension of the existing pedestrian subway 8 metres in length under Western Way

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
Borough of Fareham and the Borough of Gosport	Work No. 5	A street tramway 63 metres in length (single line) extending from its junction with the termination of Work No. 4, across the roundabout junction of Western Way and West Street to a point near to the eastern end of the access road to Fareham Railway Station
Borough of Fareham and the Borough of Gosport	Work No. 6	A tramroad 8525 metres in length (in part single line, in part double line with spurs) extending from its junction with the termination of Work No. 5 and the commencement of Work No. 1, along the eastern side of Fareham Railway Station, passing in a tunnel under the railway and back along the western side of the station, across a new bridge over The Avenue, along the disused railway, along the cycletrack/footpath (formerly a railway line), past the Sanderson Centre at the end of Carlyle Road and then across Forton Field to Forton Road
Borough of Fareham	Work No. 6A	A new access road 216 metres in length connecting the junction of the The Avenue and West Street to a revised car park on the east side of Fareham Railway Station
Borough of Fareham	Work No. 6B	A new access road 265 metres in length extending from The Avenue to a proposed car park on the west side of Fareham Railway Station
Borough of Fareham	Work No. 6C	A new cycletrack 95 metres in length connecting Redlands Lane to the proposed Redlands Lane Stop
Borough of Gosport	Work No. 6D	A new cycletrack 101 metres in length connecting the existing footpath at the end of Mountbatten Close and

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
		Gregson Avenue footway to the proposed Gregson Avenue Stop
Borough of Gosport	Work No. 6E	A new cycletrack 29 metres in length connecting the existing footpath at the end of Montgomery Road and Gregson Avenue footway to Work No. 6D
	Work No. 6F	A new cycletrack 39 metres in length connecting the existing footpath at the end of Harwood Close and Gregson Avenue footway to Work No. 6D
	Work No. 6G	A new cycletrack 125 metres in length connecting the existing footway at the end of Keyes Close and Gregson Avenue footway to the proposed Gregson Avenue Stop
	Work No. 6H	A new cycletrack 34 metres in length connecting Montgomery Road to the proposed Gregson Avenue Stop
	Work No. 6J	A new cycletrack 130 metres in length connecting the proposed Gregson Avenue Stop to the existing ramp to the subway north east of Cameron Close
	Work No. 6K	A new cycletrack 46 metres in length connecting Work No. 6J to the footway leading to Cameron Close
	Work No. 6L	A new cycletrack 59 metres in length connecting Tichborne Way north east of the disused railway to the proposed Holbrook Stop
	Work No. 6M	A new cycletrack 70 metres in length connecting Tichborne Way south east of the disused railway to the proposed Holbrook Stop

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
	Work No. 6N	A new cycletrack 82 metres in length connecting the footpath at the end of Orange Grove to the proposed Holbrook Stop
	Work No. 6P	A new footpath 24 metres in length connecting the existing footpath at the rear of 86 Turner Avenue to the existing cycletrack on the east of the disused railway
	Work No. 6Q	A new cycletrack 759 metres in length connecting the existing cycletrack at the rear of 84 Turner Avenue to Military Road incorporating a tunnel 29 metres in length under Rowner Road
	Work No. 6R	A new cycletrack 86 metres in length connecting the footway on the north side of Rowner Road to the east of the disused railway to its junction with Work No. 6Q
	Work No. 6S	A new pedestrian access 104 metres in length connecting the footway on the south side of Rowner Road east of the disused railway to its junction with Work No. 6Q
	Work No. 6T	A new pedestrian access 142 metres in length connecting the footway on the south side of Rowner Road west of the disused railway to the proposed Rowner Road Stop
	Work No. 6U	A new access road 103 metres in length connecting Grange Road with the proposed Depot (Work No. 6V)
	Work No. 6V	A new tramcar depot incorporating lines of rails connected to Work No. 6
	Work No. 6W	A new access road 43 metres in length connecting Military Road to the proposed electricity substation

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
Borough of Gosport	Work No. 6X	A new cycletrack 353 metres in length connecting Station Road to Cambridge Road
	Work No. 6Y	A new cycletrack 913 metres in length connecting Cambridge Road to Lees Lane incorporating a tunnel 23 metres in length under Ann's Hill Road and a crossing and footpath to the rear of Nos. 2-34 Middlecroft Lane
	Work No. 6Z	A new cycletrack 466 metres in length connecting the proposed car park at the eastern end of Carlyle Road to the existing cycletrack adjacent to the children's playground at the rear of 34 Kings Road, including a spur 21 metres in length connecting to the existing cycletrack to the rear of 114 Kings Road
	Work No. 7	A street tramway 1480 metres in length (double line) extending from its junction with the termination of Work No. 6, along Forton Road, Mumby Road, North Cross Street, South Cross Street and South Street to a point south west of the bus station at The Esplanade
Borough of Gosport and the City of Portsmouth	Work No. 7A	A new highway 30 metres in length connecting South Street with Service Area 5
	Work No. 8	A tramroad, or a street tramway with a guided busway, with spurs, 1023 metres in length (double line), extending from its junction with the termination of Work No. 7 passing in a new tunnel (Work No. 8A) across Portsmouth Harbour to a point on The Hard
	Work No. 8A	A new immersed tube tunnel 778 metres in length extending

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of work</i>
		from a point on The Esplanade across Portsmouth Harbour to a point west of Station Approach
Borough of Gosport	Work No. 8B	A temporary site 59 metres in length for Gosport to Portsmouth Harbour Ferry Jetty
City of Portsmouth	Work No. 8C	A temporary site 229 metres in length for Gosport to Portsmouth Harbour Ferry Jetty
	Work No. 8D	A temporary site 232 metres in length for mooring immersed tube tunnel elements
	Work No. 9	A street tramway 1496 metres in length (double line) extending from its junction with the termination of Work No. 8 along The Hard, Queen Street, Edinburgh Road, Stanhope Road and Station Street terminating west of the junction of Station Street and Slindon Street

SCHEDULE 2

Articles 5 and 35

ACQUISITION OF CERTAIN LAND

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number and description of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
Borough of Fareham	1/4 to 1/13 inclusive: Land to rear of 1 and 7 Grove Road and 227 to 217 West Street	Upgrade existing rear access from Grove Road
	1/1, 1/2, 1/3: Land to the front of 227 to 229 West Street and 2 Grove Road	Street alterations
	1/35, 1/36: Land to the front of 181 and 183 West Street	Street alterations
	1/33, 1/34: Land to the front of 201 West Street	Street alterations

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number and description of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
	1/43 to 1/48 inclusive: Land to the front of 145b to 151 West Street and 155 West Street	Street alterations
	1/22 to 1/31 inclusive: Russell Place to rear of 201 to 175 West Street including part of rear access road serving 1–5 Meadow Terrace and land to rear of 183 to 187 West Street and from 1 Russell Place to Trinity Street including part of yard and buildings on north side of Russell Place and part of yard and buildings to the south and to the rear of 27 Trinity Street	Upgrade existing access road (Russell Place)
	1/37 to 1/42 inclusive & 1/49: Land to rear of 161 to 145 West Street, to the north of 2 Trinity Road and to the south of 2 Osborn Road South	Provide service link road and car parking
	1/50: Land to rear of 127 to 121 West Street at east end of Malthouse Lane	Revised access and car parking
	1/52 to 1/58 inclusive and 1/60 to 1/79 inclusive: Land between 160c and 192 West Street	Street alterations
	1/82: Part of Fareham Bus Station on north-east side of Hartland's Road	Revise layout of Bus Station and provide taxi rank
	1/80: Land between Hartland's Road and Portland Street south-east of Fareham Bus Station	Revised junction layout
	1/85: Part of car park to south of Homefayre House, Western Road	Revised access and car parking
Borough of Gosport	1/87: Land to rear of 1 to 4 Crescent Gardens and to rear of 4 to 27 Crescent Road	Provide revised rear access and landscaping
	1/94: Land to west and south of Delme Court, Maytree Road	Provide revised car parking

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Borough of Gosport	2/32: Land to the west of Fareham Station Footbridge	Provide extension to existing Railtrack footbridge
	2/28: Part of Black Brook on east side of The Avenue north-east of 9 Paxton Road	Modifications to existing culvert
	2/26, 2/27: Land to the north of The Avenue opposite Paxton Road	Street alterations
	2/9 (Part): Land on north-west side of Fareham Railway Station	Working area for construction of tunnel beneath railway
	2/1, 2/2, 2/3: Land on The Avenue, west of the West Street/Western Way roundabout	Street alterations
	2/30, 2/34: Part of land to the front of Croft House, Redlands Lane	Street alterations and kerb realignments to access
	3/4: Land to the rear of 5 to 8 and 14 to 17 Solent House, off Redlands Lane	Provision of footpath/ cycletrack
	4/4, 4/6, 4/9: Land on west and east side of Newgate Lane on both sides of disused railway line	Junction improvements at level crossing
	4/10: Land between 335 and 337 Gosport Road on the north-east side of the disused railway	Accommodation Land
	6/5: Area of land to the east of Cameron Close	Provision of ramp and steps
	6/6 (Part): Area of land to the south west of Gregson Avenue	Provision of substation
	8/5: Turner Avenue to the front of 30 to 48 Turner Avenue	Drainage works
	8/6 (Part): Land to the south of 30 Turner Avenue	Drainage works
9/4, 9/5: Two areas of land on Grange Road opposite Nos 15 to 53 Grange Road	Street Alterations	
11/6: Footpath at eastern end of Carlyle Road	Drainage outfall	

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	12/8 (Part): Forton Road, west of 103 Forton Road	Street alterations
	12/6, 12/7: Part of land to the front of 46a Forton Road	Street alterations
	12/5: Part of access to depot north of Spring Garden Lane	Street alterations
	12/9: Part of Spring Garden Lane	Street alterations
	13/1: Part of land on west side of junction of Mumby Road and North Cross Street	Street alterations
Borough of Gosport	13/5: Part of access to industrial units on north side of Mumby Road opposite 21–32 St Matthews Court, King Street	Street alterations
	13/9: Gosport Shopping Precinct	Provide alternative pedestrian route
	13/21 (Part): South Street to the west of South Cross Street	Street alterations
	13/10: Land to the front of Nelson House, Winchfield House and Rodney House	Street alterations
	13/12 (Part), 13/18 (Part): Car park off South Street	Car park alterations
	14/11: Land to the rear of 83 to 86 High Street	Street alterations
City of Portsmouth	15/9: Car park off Havant Street	Location for substation and contractors' work site
	16/2, 16/3, 16/4: Land to the front of 1–7 Queen Street	Street alterations
	16/14 (Part): Lion Terrace, Portsmouth	Street alterations and car parking
	16/5: Land fronting HMS Nelson	Street alterations
	16/6: Access to Bishops House	Kerb alterations
	16/7: Land on the corner of Edinburgh Road/ Stanhope Road	Street alterations
	16/8, 16/9, 16/10: Land to the south side of 108–106	Street alterations

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number and description of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
	Commercial Road and 9 Surrey Street	
	16/12, 16/13: Land to the south of Station Road	Street alterations
	16/1: Land on north side of Queen Street east of York Place and west of HMS Nelson	Location for substation and contractors' work site

SCHEDULE 3

Article 8

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
Borough of Fareham	West Street	Kerb line to be set forward between KF1 and KF2 along northern edge of West Street
	West Street	Bus stop lay-by to be provided between BS1 and BS2 along northern edge of West Street
	Maytree Road	Kerblines to be revised between KR1 and KR2 along western edge of Maytree Road to form new access
Borough of Fareham	Grove Road	Kerblines to be revised between KR3 and KR4 along east side of Grove Road to form revised access
	West Street	Kerb line to be set back between KB1 and KB2 along northern edge of West Street on east side of junction with Grove Road
	West Street	Sheltered loading bay to be provided between LB1 and LB2 along northern edge of West Street
	West Street	Sheltered disabled parking bay to be provided between PB1 and PB2 along northern edge of West Street

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	West Street	Sheltered parking (including Disabled parking) and loading bay to be provided between PB3 and PB4 along southern edge of West Street
	West Street	Kerb line to be set forward between KF3 and KF4 along northern edge of West Street in front of the proposed West Street Stop platform
	West Street	Kerb line to be set back between KB3 and KB4 along northern edge of West Street on west and east sides of junction with Trinity Street
	Trinity Street	Kerblines to be revised between KR5 and KR6 along west side of Trinity Street to form revised access
	Trinity Street	Kerblines to be revised between KR7 and KR8 along east side of Trinity Street to form new access
	Osborn Road South	Kerblines to be revised between KR9 and KR10 along west side of Osborn Road South to form new access
	Osborn Road South/Malthouse Lane	Kerblines to be revised between KR11 and KR12 along east side of Osborn Road South to form revised access
	West Street	Bus stop lay-by to be provided between BS3 and BS4 along northern edge of West Street
	West Street	Sheltered loading bay to be provided between LB3 and LB4 along northern edge of West Street
	West Street	Loading areas to be provided in footway between LA1 and LA2 on north side of West Street
	West Street	Disabled parking area to be provided in footway between

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
Borough of Fareham	West Street	PB5 and PB6 along northern edge of West Street Kerb line to be set forward between KF5 and KF6 along northern edge of West Street on west and east sides of junction with Osborn Road South
	West Street	Kerb line to be set forward between KF7 and KF8 along southern edge of West Street
	West Street	Sheltered loading bay to be provided between LB5 and LB6 along southern edge of West Street
	West Street	Kerb line to be set back between KB5 and KB6 along southern edge of West Street
	West Street	Kerb line to be set forward between KF9 and KF10 along northern edge of West Street on east side of junction with Hartland's Road
	West Street	Sheltered loading bay to be provided between LB7 and LB8 along southern edge of West Street on east side of junction with Hartland's Road
	West Street	Sheltered disabled parking bay to be provided between PB7 and PB8 along southern edge of West Street on east side of junction with Hartland's Road
	Hartland's Road	Kerb line to be set forward between KF11 and KF12 along eastern edge of Hartland's Road
	Hartland's Road/Western Road	Realignment of junction and revision of kerblines shown generally as RJ2
	Hartland's Road	Kerb line to be set back between KB7 and KB8 along eastern edge of Hartland's

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		Road south of junction with Western Road
	Hartland's Road	Sheltered parking bay for wedding and funeral vehicles to be provided between PB9 and PB10 along eastern side of Hartland's Road south of junction with Western Road
	Western Road	Kerb line to be set forward between KF13 and KF14 along north-west edge of Western Road on south side of junction with Hartland's Road
	Western Road	Kerb line to be set forward between KF17 and KF18 along southern edge of Western Road
	Queen's Road	Kerb line to be set forward between KF15 and KF16 along north-east edge of Queen's Road at junction with Western Road
	Western Way/The Avenue/ West Street	Realignment of junction and revision of kerblines shown generally as RJ3
	The Avenue	Kerb line to be set back between KB9 and KB10 along southern edge of The Avenue on west side of junction with Western Way.
	The Avenue	Kerb line to be set back between KB11 and KB12 along northern edge of The Avenue on west side of junction with West Street
	The Avenue	Bus stop lay-by to be provided between BS5 and BS6 along southern edge of The Avenue on west side of junction with Western Way
	The Avenue/Paxton Road	Realignment of junction and revision of kerblines shown generally as RJ4

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
Borough of Fareham	The Avenue/Gudge Heath Lane/Redlands Lane	Realignment of junction and revision of kerblines shown generally as RJ5
Borough of Gosport	Palmerston Drive	Kerbs to be set back between KB11A and KB12A and between KB11B and KB12B
	Grange Road	Kerb line to be revised between KR13 and KR14 along eastern edge of Grange Road to form junction with new Depot Access Road
	Station Road/Military Road	Kerb line to be set back between KB13 and KB14 along southern edge of junction of Station Road and Military Road
	Military Road	Kerb line to be revised between KR15 and KR16 along eastern edge of Military Road to provide new access
	Station Road/Military Road	Kerb line to be set forward between KF21 and KF22 along eastern edge of junction of Military Road Station Road
	Leesland Road	Kerb line to be set back between KB15 and KB16 along northern edge of Leesland Road on west side of junction with Lees Lane
	Leesland Road	Kerb line to be set forward between KF23 and KF24 along southern edge of Leesland Road on west side of junction with Whitworth Road
	Carlyle Road	Kerb line to be set forward between KF25 and KF26 along northern edge of Carlyle Road
	Carlyle Road	New kerb to be provided at eastern end of Carlyle Road to provide new carpark layout (NK1)
	Forton Road	Kerb line to be set forward between KF27 and KF28 along northern edge of Forton Road

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Forton Road	Kerb line to be set forward between KF29 and KF30 along southern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB13 and PB14 along northern edge of Forton Road
	Forton Road	Bus stop lay-by to be provided between BS7 and BS8 along northern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB15 and PB16 along northern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB17 and PB18 along southern edge of Forton Road
	Forton Road	Bus stop lay-by to be provided between BS9 and BS10 along southern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB19 and PB20 along southern edge of Forton Road
	Forton Road	Kerb line to be altered between KR17 and KR18 along southern edge of Forton Road
	Forton Road	Bus stop lay-by to be provided between BS11 and BS12 along southern edge of Forton Road
	Forton Road	Kerb line to be set forward between KF31 and KF32 along northern edge of Forton Road
Borough of Gosport	Forton Road	Bus stop lay-by to be provided between BS13 and BS14 along northern edge of Forton Road
	Forton Road	Kerb line to be set back between KB19 and KB20 along northern edge of Forton Road

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Forton Road	Kerb line to be set forward between KF33 and KF34 along northern edge of Forton Road
	Forton Road	Sheltered disabled parking bay to be provided between PB21 and PB22 along northern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB23 and PB24 along northern edge of Forton Road
	Forton Road	Kerb line to be realigned between KR35 and KR36 along southern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB27 and PB28 along southern edge of Forton Road
	Forton Road	Bus stop lay-by to be provided between BS15 and BS16 along southern edge of Forton Road
	Forton Road	Kerb line to be set forward between KF37 and KF38 along northern edge of Forton Road
	Forton Road	Kerb line to be set back between KB19A and KB20A along the northern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB24A and PB24B along the southern edge of Forton Road
	Forton Road	Loading bay to be provided between LB9 and LB10 along the southern edge of Forton Road
	Forton Road	Sheltered parking bay to be provided between PB24C and PB24D on the southern edge of Forton Road
	Forton Road	Loading bay to be provided between LB11 and LB12 on

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		the southern edge of Forton Road
	Spring Garden Lane	Kerb line to be set forward between KF39 and KF40 along eastern edge of Spring Garden Lane
	Spring Garden Lane	Kerb line to be set forward between KF41 and KF42 along southern edge of Spring Garden Lane
	Mumby Road	Kerb line to be set back between KB21 and KB22 along northern edge of Mumby Road
	Mumby Road	Kerb line to be set back between KB23 and KB24 along southern edge of Mumby Road
	Mumby Road	Kerb line to be set forward between KF43 and KF44 along southern edge of Mumby Road
	Mumby Road	Kerb line to be set back between KB25 and KB26 along southern edge of Mumby Road
	Mumby Road	Bus stop lay-by to be provided between BS17 and BS18 along northern edge of Mumby Road
	Mumby Road	Bus stop lay-by to be provided between BS19 and BS20 along southern edge of Mumby Road
	Mumby Road	Kerb line to be set back between KB27 and KB28 along southern edge of Mumby Road on west side of junction with Clarence Road
Borough of Gosport	Mumby Road	Kerb line to be set back between KB29 and KB30 along northern edge of Mumby Road on west side of car park entrance opposite Clarence Road

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Mumby Road	Kerb line to be set forward between KF45 and KF46 along northern edge of Mumby Road
	Mumby Road	Kerb line to be set back between KB31 and KB32 along southern edge of Mumby Road on east side of junction with King Street
	Mumby Road	Sheltered parking bay to be provided between PB29 and PB30 along northern edge of Mumby Road
	Mumby Road	Kerb line to be set back between KB33 and KB34 along northern edge of Mumby Road on north and south sides of entrance to boat yard
	Mumby Road	Kerb line to be set back between KB35 and KB36 along eastern edge of Mumby Road on south side of junction with Harbour Road
	North Cross Street	Kerb line to be set back between KB37 and KB38 along western edge of North Cross Street at junction with Mumby Road
	North Cross Street	Kerb line to be set back between KB39 and KB40 along eastern edge of North Cross Street at junction with Mumby Road
	North Cross Street	Kerb line to be set forward between KF47 and KF48 along western edge of North Cross Street
	South Cross Street	Kerb line to be set back between KB41 and KB42 along eastern edge of South Cross Street on south side of junction with High Street in front of proposed South Cross Street Stop
	South Cross Street	Kerb line to be set forward between KF49 and KF50 along

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		eastern edge of South Cross Street opposite junction with The Precinct
	South Cross Street	Kerb line to be set back between KB43 and KB44 along western edge of South Cross Street between Thorngate Way and South Street
	South Cross Street/South Street	Kerb line to be set back between KB45 and KB46 along eastern edge of South Cross Street adjacent to The Precinct and along the northern edge of South Street
	South Cross Street	Kerb line to be set forward between KF51 and KF52 along western edge of South Cross Street at junction with South Street
	South Street	Kerb line to be set forward between KF53 and KF54 along southern edge of South Street
	South Street	Bus stop lay-by to be provided between BS21 and BS22 along southern edge of South Street
	South Street	Bus stop lay-by to be provided between BS23 and BS24 along northern edge of South Street
	South Street	Kerb line to be set back between KB49 and KB50 along southern edge of South Street
	South Street	Kerb line to be set back between KB47 and KB48 along northern edge of South Street
	Bus Station Access Road	Realignment of street between RS1 and RS2
Borough of Gosport	Trinity Green/The Esplanade	Kerb line to be revised between KR15 and KR16 between Trinity Green and The Esplanade

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
City of Portsmouth	The Hard/Station Approach/ Clock Street	Realignment of junction shown generally as RJ6
	Queen Street	Kerb line to be set back between KB51 and KB52 along southern edge of Queen Street at junction with The Hard
	Queen Street	Kerb line to be set back between KB53 and KB54 along northern edge of Queen Street at junction with The Hard
	Queen Street	Kerb line to be set forward between KF55 and KF56 along northern edge of Queen Street
	Queen Street	Sheltered parking bay including disabled parking to be provided between PB31 and PB32 along northern edge of Queen Street
	Queen Street	Sheltered parking bay including disabled parking to be provided between PB32a and PB33 along northern edge of Queen Street
	Queen Street	Kerb line to be set back between KB55 and KB56 along southern edge of Queen Street
	Queen Street	Kerb line to be set back between KB57 and KB58 along southern edge of Queen Street
	Queen Street	Kerb line to be set forward between KF57 and KF58 along northern edge of Queen Street
	Queen Street	Sheltered disabled parking bay to be provided between PB34 and PB35 along northern edge of Queen Street
	Queen Street	Sheltered parking bay to be provided between PB35 and PB36 along northern edge of Queen Street

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Queen Street	Bus stop lay-by to be provided between BS25 and BS26 along northern edge of Queen Street
	Queen Street	Sheltered loading bay to be provided between LB9 and LB10 along northern edge of Queen Street
	Queen Street	Sheltered disabled parking bay to be provided between PB37 and PB38 along northern edge of Queen Street
	Queen Street	Parking bay to be provided between PB37 and PB39 along northern edge of Queen Street
	Queen Street	Bus stop lay-by to be provided between BS27 and BS28 along southern edge of Queen Street
	Queen Street	Kerb line to be set back between KB59 and KB60 along southern edge of Queen Street
	Queen Street	Kerb line to be set forward between KF59 and KF60 along northern edge of Queen Street
	Queen Street	Kerb line to be set back between KB61 and KB62 along northern edge of Queen Street
	Queen Street	Bus stop lay-by to be provided between BS29 and BS30 along southern edge of Queen Street on west side of junction with Lion Terrace
City of Portsmouth	Queen Street	Sheltered loading bay to be provided between LB11 and LB12 along southern edge of Queen Street
	Lion Terrace	Realignment of street between RS3 and RS4 including provision of parking bays, including disabled parking bays
	Queen Street	Kerb line to be set back between KB63 and KB64

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		along northern edge of Queen Street on west side of junction with Alfred Road
	Queen Street/Alfred Road/ Anglesea Road	Realignment of junction shown generally as RJ7
	Queen Street	Sheltered parking bay to be provided between P39A and PB39B on the southern edge of Queen Street
	Queen Street	Kerb line to be set forward between KF59 and KF60 on the northern edge of Queen Street
	Queen Street	Kerb line to be set back between KB60 and KB61 on northern edge of Queen Street
	Queen Street	Kerb line to be set forward between KF68 and KF69 on the southern edge of Queen Street
	Edinburgh Road	Kerb line to be set back between KB65 and KB66 along southern edge of Edinburgh Road on east side of junction with Anglesea Road
	Edinburgh Road	Kerb line to be set back between KB67 and KB68 along northern edge of Edinburgh Road on east side of junction with Alfred Road
	Edinburgh Road	Kerb line to be set forward between KF61 and KF62 along northern edge of Edinburgh Road
	Edinburgh Road	Sheltered parking bay for wedding and funeral vehicles to be provided between PB41 and PB42 along northern edge of Edinburgh Road
	Edinburgh Road	Sheltered parking bay to be provided between PB42 and PB43 along northern edge of Edinburgh Road

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Edinburgh Road	Sheltered disabled parking bay to be provided between PB44 and PB45 along northern edge of Edinburgh Road
	Edinburgh Road	Sheltered parking bay to be provided between PB46 and PB47 along northern edge of Edinburgh Road
	Edinburgh Road	Sheltered parking bay to be provided between PB48 and PB49 along northern edge of Edinburgh Road
	Edinburgh Road	Kerb line to be set forward between KF63 and KF64 along southern edge of Edinburgh Road
	Edinburgh Road	Sheltered disabled parking bay to be provided between PB50 and PB51 along southern edge of Edinburgh Road
	Edinburgh Road	Sheltered parking bay to be provided between PB51 and PB52 along southern edge of Edinburgh Road
	Edinburgh Road	Sheltered disabled parking bay to be provided between PB52 and PB53 along southern edge of Edinburgh Road
City of Portsmouth	Stanhope Road	Kerb line to be set back between KB69 and KB70 along western edge of Stanhope Road on south west side of junction with Edinburgh Road
	Edinburgh Road/Unicorn Road/ Stanhope Road	Realignment of junction shown generally as RJ8
	Stanhope Road	Sheltered parking bay to be provided between PB54 and PB55 along western edge of Stanhope Road
	Stanhope Road	Sheltered disabled parking bay to be provided between PB55 and PB56 along western edge of Stanhope Road

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Stanhope Road/Commercial Road/Station Road	Kerb line to be set forward between KF65 and KF66 along north-west edge of junction of Stanhope Road and Commercial Road
	Station Street	Kerb line to be set forward between KF67 and KF68 along northern edge of Station Street between junctions with Commercial Road and Slindon Street
	Station Street/Commercial Road	Kerb line to be set forward between KF69 and KF70 along south-east edge of junction of Station Street and Commercial Road
	Station Street	Kerb line to be set back between KB71 and KB72 along southern edge of Station Street

SCHEDULE 4

Article 11

STREETS TO BE STOPPED UP

PART I

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
Borough of Gosport	Footpath at rear of 84 and 86 Turner Avenue	Permanent stopping up street between PS1 and PS2 at entry to cycle track/footpath	Work No. 6P
	Cycle track between 84 Turner Avenue and Military Road level crossing including all side accesses	Permanent stopping up street between PS3 and PS4	Work No. 6Q

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
Borough of Gosport	Cycle track between Station Road and Cambridge Road level crossing including all side accesses	Permanent stopping up street between PS5 and PS6	Work No. 6X
	Cycle track between Cambridge Road and Lees Lane level crossing including all side accesses	Permanent stopping up street between PS7 and PS8	Work No. 6Y
	Cycle track passing through allotment gardens at eastern end of Carlyle Road including all side accesses	Permanent stopping up street between PS11 and PS12	Part of car park at eastern end of Carlyle Road and Work No. 6Z
	Cycle track at rear of 114 to 34 Kings Road including all side accesses	Permanent stopping up street between PS13 and PS14	Work No. 6Z
	Access Road to Service Area 5	Permanent stopping up street between PS15 and PS16 at junction with South Street	Work No. 7A
	The Esplanade	Permanent stopping up street between PS17 and PS18 on the south side of Gosport Bus Station	Work No. 7B

PART II

STREETS FOR WHICH NO SUBSTITUTE WILL BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Borough of Gosport	Cycle track/footpath on north side of Carlyle Road	Permanent stopping up street between PS9 and PS10
Borough of Fareham	Access road to Delme Court	Permanent stopping up street between PS19 and PS20

SCHEDULE 5

Article 12

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
Borough of Fareham	West Street	Between TS1 and TS2 including all side roads forming junctions with West Street
	Hartland's Road	Between TS3 and TS4
	Western Road	Between TS5 and TS6 on south side of junction with Hartland's Road including all side roads forming junctions with Western Road
Borough of Fareham	Western Way	Between TS7 and TS8
	The Gillies	Over the length of Work No. 4A
	The Avenue	Between TS9 and TS10 including all side roads forming junctions with The Avenue
	Redlands Lane	Between TS11 and TS12 on approaches to bridge
	Mill Road	Between TS12a and TS12b on approach to Redlands Lane
	Palmerston Drive	Between TS13 and TS14 on approaches to bridge
Borough of Gosport	Newgate Lane	Between TS15 and TS16 on approaches to level crossing
	Wych Lane	Between TS17 and TS18 on approaches to bridge
	Gregson Avenue	Between TS19 and TS20 on approaches to bridge
	Brewers Lane	Between TS21 and TS22 on approaches to bridge
	Tichborne Way	Between TS23 and TS24 on approaches to bridge
	Rowner Road/Turner Avenue	Between TS25 and TS26 on approaches to bridge, and section of Turner Avenue Nos 23–30
	Military Road	Between TS27 and TS28

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
	Station Road	Between TS29 and TS30
	Cambridge Road	Between TS31 and TS32
	Ann's Hill Road	Between TS33 and TS34 on approaches to bridge
	Leesland Road/Carlyle Road	Between TS35 and TS36
	Lees Lane/Whitworth Road	Between TS37 and TS38
	Forton Road	Between TS39 and TS40 including all side roads forming junction with Forton Road
	Mumby Road	Between TS40 and TS41 including all side roads forming junction with Mumby Road
	North Cross Street	Between TS42 and TS43 including all side roads forming junction with North Cross Street
	High Street	Between TS43 and TS44
Borough of Gosport	South Cross Street	Between TS44 and TS45 including all side roads forming junction with South Cross Street
	South Street	Between TS46 and TS47 including all side roads forming junction with South Street
City of Portsmouth	The Hard	Between TS48 and TS49 including all side roads forming junction with The Hard
	Queen Street	Between TS49 and TS50 including all side roads forming junction with Queen Street
	Edinburgh Road	Between TS50 and TS51 including all side roads forming junction with Edinburgh Road
City of Portsmouth	Stanhope Road	Between TS51 and TS52
	Station Road	Between TS52 and TS53

SCHEDULE 6

Article 18

LEVEL CROSSINGS

PART I

TRAMROAD LEVEL CROSSINGS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be crossed on the level</i>
Borough of Fareham	Cycletracks between platforms and adjacent car parking at Fareham station
	Cycletrack between platforms of Redlands Lane stop
	Palmerston Drive
Borough of Gosport	Cycletrack between platforms of Wych Lane stop
	Cycletrack between platforms of Gregson Avenue stop
	Cycletrack between platforms of Holbrook stop
	Cycletrack at rear of Nos 84 & 86 Turner Avenue
	Cycletrack at rear of No 50 Turner Avenue
	Cycletrack at rear of No 36 Turner Avenue
	Cycletrack between platforms of Rowner Road stop
	Military Road
	Cycletrack between Harding Road and Marlborough Road
	Cycletrack between Mortimore Road and Nightingale Close
	Cambridge Road
	Cycletrack between platforms of Cambridge Road stop
	Cycletrack at front of No 11 Ford Road
Cycletrack between Claudia Court and Clyde Road	
Cycletrack on east side of No 46 St Ann's Crescent	
Cycletrack on north side of garages at end of Norman Road	

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be crossed on the level</i>
City of Portsmouth	Lees Lane/Leesland Road/Whitworth Road junction
	Cycletrack between platforms of Lees Lane stop
	Cycletrack passing through allotment gardens at end of Carlyle Road
	Footpaths at ends of Lear Road and Toronto Place
	Cycletrack between platforms of St Vincent College stop
	Cycletrack at eastern end of South Street associated with Gosport Esplanade stop
	Cycletrack between platforms of Dockyard stop

PART II

TRAMWAY LEVEL CROSSINGS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be crossed on the level</i>
Borough of Fareham	West Street/Western Way/The Avenue
	Hartlands Road
Borough of Gosport	High Street
City of Portsmouth	Commercial Road

SCHEDULE 7

Article 26

PROTECTION OF NAVIGATION

1. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “constructed” has a corresponding meaning;

“plans” includes sections, drawings, particulars and schedules of construction;

“specified works and operations” means so much of the authorised works as may be situated upon, across, under or over the harbour and any operations carried out under article 21 and article 22 of the Order and “specified work” and “specified operation” shall be construed accordingly;

“tidal work” means so much of any work authorised by this Order as is on, over or under tidal waters or land below the level of mean high-water springs;

“Trinity House” means the Corporation of Trinity House of Deptford Strond.

Tidal Works

2.—(1) A tidal work shall not be constructed, altered, replaced or re-laid except in accordance with plans approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, altered, replaced or re-laid in contravention of this paragraph or of any condition or restriction imposed under this paragraph—

- (a) the Secretary of State may by notice in writing require the undertaker at its own expense to remove the tidal work or any part of it and to restore the site to its former condition or so near its former condition as is acceptable to him; or
- (b) where it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work, or part of it, and so restore the site.

(3) If at the end of 28 days from the date when notice is served on the undertaker under subparagraph (2)(a) above it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice.

(4) The Secretary of State may, if he considers it expedient, order a survey and examination of any site on which it is proposed to execute a tidal work.

Lights etc. during tidal works

3.—(1) The undertaker shall—

- (a) during the whole time of the construction, alteration, replacement or re-laying of a tidal work, exhibit every night from sunset to sunrise at or near the work any such lights, and
- (b) take such other steps for the prevention of danger to navigation from the construction, alteration, replacement or re-laying of a tidal work,

as Trinity House may direct.

(2) If the undertaker fails to comply in any respect with a direction given under this paragraph it shall be guilty of an offence.

Damage etc. to works

4.—(1) In case of damage to or destruction or decay of a tidal work, or any part of a tidal work, the undertaker shall as soon as reasonably practicable—

- (a) give notice to Trinity House and the Queen's Harbour Master, and
- (b) lay down such bouys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may direct.

(2) If the undertaker fails to notify Trinity House or the Queen's Harbour Master as required by this paragraph or to comply in any respect with a direction given under this paragraph it shall be guilty of an offence.

Abandonment etc. of structures

5.—(1) Where a tidal work is abandoned, or allowed to fall into decay, the Secretary of State may by notice in writing require the undertaker at its own expense—

- (a) to repair and restore the work, or any part of it, or
- (b) to remove the work and restore the site to its former condition or so near its former condition as is acceptable to him.

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(2) Where—

- (a) a work erected under this Order part of which is a tidal work is abandoned or allowed to fall into decay, and
- (b) the part of the work on or over land above the level of mean high-water springs is in such a condition as to interfere, or cause reasonable apprehension that it may interfere, with the right of navigation or any public rights over the foreshore,

the Secretary of State may include that part of the work, or any portion of it, in any notice under sub-paragraph (1) above.

(3) If at the end of the period of 28 days from the date when notice is served on the undertaker under sub-paragraph (1) above it has failed to begin taking steps to comply with the requirements of the notice or, after beginning, has failed to make reasonably expeditious progress towards their implementation, the Secretary of State may execute the works specified in the notice.

Surveys etc.

6. The Secretary of State may, if he considers it expedient, order a survey and examination of any tidal work.

Permanent lights etc.

7.—(1) The undertaker shall—

- (a) exhibit at the outer extremity of a tidal work every night from sunset to sunrise such lights, and
- (b) take such other steps for the prevention of danger to navigation from a tidal work,

as Trinity House may direct.

(2) If the undertaker fails to comply in any respect with a direction given under this paragraph it shall be guilty of an offence.

Offences

8.—(1) Where the undertaker is guilty of an offence under paragraphs 3, 4, or 7 above it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In proceedings for any such offence it shall be a defence for the undertaker to show that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) If in any case the defence provided by sub-paragraph (2) above involves the allegation that the commission of the offence was due to the act or default of another person, the undertaker shall not, without the leave of the court, be entitled to rely on the defence unless, not later than 7 days before the hearing of the proceedings, it has served on the prosecution a notice in writing giving such information as was then in its possession identifying or assisting in the identification of the other person.

Expenses

9. The Secretary of State shall be entitled to recover from the undertaker any expenditure incurred by him under paragraphs 2(2)(b) or (3) or 5(3) above or on a survey and examination under paragraphs 2(4) or 6 above.

As to Queen's Harbour Master

10.—(1) The undertaker shall, before commencing any specified work or operation, supply to the Queen's Harbour Master proper and sufficient plans of the works or operation for his reasonable approval and shall not commence the same until such plans have been approved in writing by the Queen's Harbour Master, or, in the event of dispute, settled pursuant to paragraph 15.

(2) In considering plans for approval under this paragraph, the Queen's Harbour Master shall have regard not only to the interests of navigation but also to the desirability of facilitating the construction of the specified works and operations notwithstanding that they interfere with navigation, taking into account for this purpose that those works and operations will enable the provision of a public project for which statutory authority has been given.

(3) The approval of the Queen's Harbour Master under this paragraph shall not be unreasonably withheld or delayed but may be given subject to reasonable conditions including conditions requiring the undertaker to vacate the tunnel area in whole or in part upon a direction being given to that effect by the Queen's Harbour Master in an emergency or otherwise for naval operational requirements where it is not reasonably practical for those requirements otherwise to be met.

(4) If, within 56 days after plans have been supplied to the Queen's Harbour Master under this paragraph, the Queen's Harbour Master has not intimated his approval or his disapproval thereof and the grounds of his disapproval, he shall be deemed to have disapproved them.

11. Without prejudice to any conditions attached to an approval by the Queen's Harbour Master under paragraph 10 above but subject to the provisions of article 22 any specified work or operation shall be so constructed or carried out as to ensure that traffic in the harbour is not interfered with more than is reasonably necessary and that at all times an unobstructed main navigation channel for the safe passage of vessels is maintained and kept dredged by the undertaker to such depth as the Queen's Harbour Master may reasonably require and to a width of not less than 120 metres.

12.—(1) Notwithstanding anything in this Order but subject to paragraph (2), the whole of the harbour shall remain subject to the powers of the Queen's Harbour Master.

(2) Anything done pursuant to an approval given under paragraph 10 shall be treated as complying with the provisions of the Dockyard Port of Portsmouth Order 1978⁽⁴⁴⁾ and in so far as it would otherwise require a licence or consent from the Queen's Harbour Master under that Order shall be deemed to have been duly licensed or consented to pursuant to that Order.

13. The Undertaker shall—

- (a) at all times afford reasonable facilities to the Queen's Harbour Master for access to the specified works and operations during their construction; and
- (b) supply the Queen's Harbour Master with all such information as he may reasonably require with regard to the specified works or the method of their execution.

14.—(1) The Queen's Harbour Master may recover from the undertaker any expenses (including a proper proportion of the overhead charges of the Queen's Harbour Master) which he may incur—

- (a) arising from the approval of plans and the inspection of the construction or carrying out of any specified work or operations;
- (b) by reason of any act or omission of the undertaker or of any person in their employ, or of their contractors or workmen whilst engaged upon any specified work or operation;
- (c) in dredging away any accumulation or silt consequent upon the execution or maintenance of any specified work or operation;

⁽⁴⁴⁾ S.I. 1978/1881.

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and the undertaker shall indemnify the Queen's Harbour Master from and against all claims and demands arising out of such construction or carrying out, act or omission and the fact that any act or thing may have been done by the Queen's Harbour Master on behalf of the undertaker or in accordance with plans approved by the Queen's Harbour Master or in accordance with any requirement of the Queen's Harbour Master or under his supervision shall not (if it was done without negligence on the part of the Queen's Harbour Master or of any person in his employ or of his contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(2) The Queen's Harbour Master shall give to the undertaker reasonable notice for any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertaker.

15. Any difference arising between the undertaker and the Queen's Harbour Master under this paragraph (other than a difference as to its meaning or construction) shall be referred to and settled by the Secretary of State.

16. The provisions of paragraphs 10 to 15 shall have effect unless otherwise agreed in writing between the undertaker and the Queen's Harbour Master.

Saving

17. Nothing in this Schedule shall prejudice or derogate from the powers, rights and privileges of Trinity House.

SCHEDULE 8

Article 38

MODIFICATION OF COMPENSATION AND COMPULSORY
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1 above, the Land Compensation Act 1973⁽⁴⁵⁾ shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 below—

- (a) for the words "land is acquired or taken" there shall be substituted the words "a right over land is purchased"; and
- (b) for the words "acquired or taken from him" there shall be substituted the words "over which the right is exercisable".

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 below—

- (a) for the word "part" in paragraphs (a) and (b) there shall be substituted the words "a right over land consisting";

(45) 1973 c. 26.

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- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is” there shall be substituted the words “right is”.

Adaptation of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following:—

(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the South Hampshire Rapid Transit Order 2001 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs,

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and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey),
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 9

Article 41

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number and description of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
Borough of Fareham	2/31: Area of highway land on The Avenue, west of West Street/Western Way/The Avenue Roundabout	Street alterations and tramroad bridgeworks	Work Nos. 5, 6, 6A and 6B
	3/5: Area of land on south-west side of Redlands Lane	Contractor's temporary works area	Work Nos. 6 and 6C
	3/7: Area of highway land to the east and west of Redlands Lane railway bridge	Tramroad bridgeworks	Work No. 6
	4/11: Area of highway land to the east and west of Palmerston Drive railway bridge and Newgate Lane level crossing	Tramroad bridgeworks and level crossing	Work No. 6
Borough of Gosport	5/12: Area of highway to the east and west of Wych Lane railway bridge	Tramroad bridgeworks	Work No. 6
	6/6: Area of highway land to the east and west of Gregson Avenue railway bridge	Tramroad bridgeworks and cycle track works	Work Nos. 6, 6D, 6E, 6F and 6G
	7/6: Area of land on south side of Tichborne Way	Contractor's temporary works compound	Work No. 6
	7/10: Area of land to the east and west of Tichborne Way	Tramroad bridgeworks and cycle track works	Work Nos. 6, 6L and 6M
	8/3: Area of land on north-east side of Rowner Road	Contractor's temporary works area	Work No. 6
	8/6: Area of highway land to east and west of Rowner Road railway bridge	Tramroad bridgeworks and cycle track work	Work Nos. 6, 6Q, 6R, 6S and 6T

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<i>(1) Area</i>	<i>(2) Number and description of land shown on land plan</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Authorised work</i>
	9/10, 9/11: Area of highway land to the east and west of Military Road level crossing including Station Road	Street alterations	Work Nos. 6 and 6Q
	10/7, 10/8: Area of highway land to the east and west of Cambridge Road level crossing including Ford Road	Street alterations	Work Nos. 6, 6X and 6Y
Borough of Gosport	10/9, 10/10: Area of highway land to the north and south of Ann's Hill Road railway bridge	Tramroad bridgeworks	Work Nos. 6 and 6Y
	11/10, 11/11, 11/12: Area of highway land to the north and south of the level crossing at Leesland Road/ Carlyle Road/Lees Lane/Whitworth Road Junction	Street alterations	Work Nos. 6 and 6Y
	14/8 (Part): Area of the Gosport Esplanade	Access to contractor's works area	Work Nos. 8, 8A, 8B and 8C
City of Portsmouth	15/15 to 15/18 inclusive: Area of land south of HMS Warrior Jetty	Contractor's temporary works area	Work Nos. 8, 8A, 8B and 8C

SCHEDULE 10

Article 54

TRAFFIC REGULATION

PART I

PROHIBITION AND RESTRICTION OF STOPPING AND WAITING

(1) No Stopping At Any Time

<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
<i>In the Borough of Fareham</i>				
01/02	Access Road to Fareham Railway Station, Fareham	South	From its junction with West Street westwards for a distance of 26 metres	To avoid congestion at traffic signals
01/02	Access Road to Fareham Railway Station, Fareham	North	From its junction with West Street westwards for a distance of 45 metres	To avoid congestion at traffic signals
01/02	West Street, Fareham	North	From its junction with The Avenue eastwards for a distance of 45 metres	To permit free movement of tramcars
01/01	West Street, Fareham	North	From a point 57 metres east of its junction with The Avenue eastwards to a point 131 metres east of its junction with Grove Road	To permit free movement of tramcars
01/01	West Street, Fareham	North	From a point 161 metres east of its junction with Grove Road eastwards to a point 67 metres west of its junction with Trinity Street	To permit free movement of tramcars
01/01	West Street, Fareham	North	From a point 30 metres west of its junction	To permit free movement of tramcars

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			with Trinity Street eastwards to a point 28 metres west of its junction with Osborn Road South	
01/01	West Street, Fareham	North	From a point 18 metres west of its junction with Osborn Road South eastwards to a point 34 metres east of its junction with Osborn Road South	To permit free movement of tramcars
01/01	West Street, Fareham	North	From a point 44 metres east of its junction with Osborn Road South eastwards for a distance of 30 metres	To permit free movement of tramcars
01/01	West Street, Fareham	North	From a point 84 metres east of its junction with Osborn Road South eastwards to its junction with Westbury Road	To permit free movement of tramcars
01/01	West Street, Fareham	South	From a point 51 metres east of its junction with Hartlands Road westwards for a distance of 20 metres	To permit free movement of tramcars
01/01	West Street, Fareham	South	From a point 9 metres east of its junction with Hartlands Road westwards to a point 39 metres west of that junction	To mitigate traffic congestion

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
<i>In the Borough of Fareham</i>				
01/01	West Street, Fareham	South	From a point 68 metres west of its junction with Hartlands Road westwards to a point 109 metres west of its junction with Kings Road	To mitigate traffic congestion
01/01	West Street, Fareham	South	From a point 129 metres west of its junction with Kings Road westwards for a distance of 11 metres	To mitigate traffic congestion
01/01	West Street, Fareham	South	From a point 22 metres east of its junction with Crescent Road westwards to its junction with Western Way	To mitigate traffic congestion
01/01	Hartlands Road (Northern section), Fareham	North	From a point 132 metres southeast of its junction with West Street southeast and eastwards for a distance of 59 metres	To mitigate traffic congestion
01/01	Hartlands Road (Northern section), Fareham	South	From a point 43 metres north west of its junction with Western Road eastwards for a distance of 64 metres	To mitigate traffic congestion
01/01	Hartlands Road (Southern section), Fareham	North East	From its junction with Western Road southeastwards for a distance of 3 metres	To mitigate traffic congestion

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
01/01	Hartlands Road (Southern section), Fareham	South West	From its junction with Western Road southeastwards for a distance of 7 metres	To mitigate traffic congestion
01/01	Western Road, Fareham	North	From its junction with Hartlands Road (northern section) south and westwards for a distance of 78 metres	To permit free move of tramcars
01/01	Western Road, Fareham	South	From its junction with Hartlands Road (northern section) south and westwards for a distance of 142 metres	To permit free movement of tramcars
<i>In the Borough of Gosport</i>				
01/08	Rowner Road Gosport	North	From its junction with Grange Road Roundabout eastwards for a distance of 40 metres	To control parking associated with nearby tram stop
01/08	Rowner Road, Gosport	North	From a point 52 metres east of its junction with Grange Road Roundabout eastwards to its junction with A32, Fareham Road	To control parking associated with nearby tram stop
01/08	Rowner Road, Gosport	South	From its junction with Grange Road Roundabout eastwards to its junction with A32, Fareham Road	To control parking associated with nearby tram stop
01/10	Cambridge Road, Gosport	North	From its junction with Linnet Court eastwards to its	To control extraneous parking

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			junction with Handley Road	
<i>In the Borough of Gosport</i>				
01/10	Cambridge Road, Gosport	South	From a point 18 metres east of its junction with Ford Road westwards to its junction with Grange Crescent	To control extraneous parking
01/10	Handley Road, Gosport	South West	From its junction with Cambridge Road northwestwards for a distance of 8 metres	To control extraneous parking
01/10	Ford Road, Gosport	North East	From its junction with Cambridge Road southeastwards for a distance of 15 metres	To control extraneous parking
01/10	Ford Road, Gosport	South West	From its junction with Cambridge Road southeastwards for a distance of 8 metres	To control extraneous parking
01/11	Whitworth Road, Gosport	West	From its junction with Leesland Road southwards for a distance of 18 metres	To control extraneous parking
01/11	Whitworth Road, Gosport	East	From its junction with Carlyle Road southwards for a distance of 16 metres	To control extraneous parking
01/11	Lees Lane, Gosport	West	From its junction with Leesland Road northwards to its junction with Chilworth Grove	To control extraneous parking

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
01/11	Lees Lane, Gosport	East	From the extended southwestern kerbline of Chilworth Grove southwards to its junction with Carlyle Road	To control extraneous parking
01/11	Leesland Road, Gosport	North	From its junction with Lees Lane westwards for a distance of 26 metres	To control extraneous parking
01/11	Leesland Road, Gosport	South	From its junction with Whitworth Road westwards for a distance of 12 metres	To control extraneous parking
01/11	Carlyle Road, Gosport	North	Entire length	To control extraneous parking
01/11	Carlyle Road, Gosport	South	From its junction with Whitworth Road eastwards for a distance of 30 metres	To control extraneous parking
01/12	Forton Road, Gosport	North	From its junction with Mill Lane eastwards for a distance of 34 metres	To control extraneous parking
01/12	Forton Road, Gosport	North	From a point 58 metres east of its junction with Mill Lane eastwards for a distance of 56 metres	To control extraneous parking
01/12	Forton Road, Gosport	North	From a point 145 metres east of its junction with Mill Lane eastwards to a point 87 metres east of its junction with Parham Road	To control extraneous parking & to permit free movement of trams

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
01/12	Forton Road, Gosport	North	From a point 155 metres east of its junction with Parham Road eastwards to its junction with Mumby Road	To permit free movement of tramcars
<i>In the Borough of Gosport</i>				
01/12	Forton Road, Gosport	South	From its junction with Mumby Road westwards to a point 103 metres east of its junction with George Street	To permit free movement of tramcars
01/12	Forton Road, Gosport	South	From a point 14 metres east of its junction with George Street westwards to a point 14 metres west of that junction	To permit free movement of tramcars
01/12	Forton Road, Gosport	South	From a point 16 metres east of its junction with Leonard Road westwards to a point 15 metres west of that junction	To permit free movement of tramcars
01/12	Forton Road, Gosport	South	From a point 14 metres east of its junction with Victoria Street westwards to a point 9 metres west of that junction	To permit free movement of tramcars
01/12	Forton Road, Gosport	South	From a point 5 metres east of its junction with Albert Street westwards from a point 102 metres west of that junction	To permit free movement of tramcars

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
01/12	Forton Road, Gosport	South	From a point 132 metres west of its junction with Albert Street westwards for a distance of 29 metres	To control extraneous parking
01/12 01/13	Mumby Road, Gosport	North	From its junction with Forton Road eastwards to a point 43 metres west of its junction with Weevil Lane	To permit free movement of tramcars
01/13	Mumby Road, Gosport	North	From a point 28 metres west of its junction with Weevil Lane eastwards to a point 142 metres east of that junction	To permit free movement of tramcars
01/13	Mumby Road, Gosport	North East	From a point 180 metres east of its junction with Weevil Lane southeastwards to a point 89 metres south of its junction with Harbour Road	To permit free movement of tramcars
01/13	Harbour Road, Gosport	Both	From its junction with Mumby Road eastwards for a distance of 20 metres	To control extraneous parking
01/13	Mumby Road, Gosport	South West & South	From a point 40 metres south east of its junction with North Cross Street northwest and westwards to a point 122 metres west of its junction with Clarence Road	To permit free movement of tramcars

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
01/13	King Street, Gosport	Both	From its junction with Mumby Road southwards for a distance of 13 metres	To control extraneous parking
01/13	Clarence Road, Gosport	Both	From its junction with Mumby Road southwards for a distance of 10 metres	To control extraneous parking
01/12 01/13	Mumby Road, Gosport	South	From a point 134 metres west of its junction with Clarence Road westwards to its junction with Forton Road	To permit free movement of tramcars
<i>In the Borough of Gosport</i>				
01/12	Spring Garden Lane Link Road, Gosport	Both	From its junction with Mumby Road westwards for a distance of 18 metres	To control extraneous parking
01/13	North Street (section adjacent to West Side of North Cross Street), Gosport	Both	Entire length	To control extraneous parking
01/13	North Cross Street, Gosport	West	From its junction with Mumby road southwards to its junction with South Cross Street	To permit free movement of tramcars
01/13	North Cross Street, Gosport	East	From its junction with Mumby Road southwards for a distance of 40 metres	To permit free movement of tramcars
01/13	North Cross Street, Gosport	East	From a point 82 metres south of its junction with Mumby Road southwards to its junction	To permit free movement of tramcars

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			with South Cross Street	
01/13	South Cross Street, Gosport	Both	Entire length	To permit free movement of tramcars
01/13	Thorngate Way, Gosport	Both	From its junction with South Cross Street westwards for a distance of 20 metres	To permit free movement of tramcars
01/13	Area 6 Service Road, Gosport	Both	From its junction with South Cross Street eastwards for a distance of 15 metres.	To mitigate traffic congestion
01/13	South Street, Gosport	North	From a point 34 metres east of its junction with Thorngate Way eastwards for a distance of 66 metres	To mitigate traffic congestion and to permit free movement of tramcars
01/13	South Street, Gosport	North	From a point 112 metres east of its junction with Thorngate Way eastwards to a point 60 metres east of the proposed access road to Area 5	To permit free movement of tramcars
01/13	South Street, Gosport	South	From a point 56 metres east of the extended eastern kerbline of the proposed access road to Area 5 westwards to a point 45 metres east of the extended eastern kerbline of Thorngate Way	To permit free movement of tramcars
01/13	Haslar Road, Gosport	Both	From its junction with South Street southwards for	To permit free movement of tramcars

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			a distance of 10 metres	
01/13	South Street, Gosport	South	From a point 33 metres east of the extended eastern kerbline of Thorngate Way westwards for a distance of 25 metres	To mitigate traffic congestion
<i>In the City of Portsmouth</i>				
01/15	The Hard, Portsmouth	West	From a point 18 metres south of its junction with the exit road from The Hard Interchange northwards to its junction with Queen Street	To mitigate traffic congestion & to permit free movement of tramcars
<i>In the City of Portsmouth</i>				
01/15	Exit Road from The Hard, Interchange, Portsmouth	Both	From its junction with The Hard south westwards for a distance of 8 metres	To mitigate traffic congestion
01/15	The Hard, Portsmouth	East	From its junction with Queen Street southwards for a distance of 10 metres	To mitigate traffic congestion
01/15	Queen Street, Portsmouth	North West	From its junction with The Hard northeastwards to a point 22 metres southwest of the extended western kerbline of Wickham Street	To permit free movement of tramcars
01/15	Queen Street, Portsmouth	North West	From the extended western kerbline of Wickham Street northeastwards	To regulate parking at pedestrian crossing point & to permit free

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
01/15	Queen Street, Portsmouth	North	for a distance of 7 metres From a point 39 metres west of its junction with Admiralty Road eastwards to a point 40 metres east of that junction	movement of tramcars To permit free movement of tramcars
01/15 01/16	Queen Street, Portsmouth	North	From a point 32 metres west of its junction with Cross Street eastwards to a point 13 metres east of that junction	To permit free movement of tramcars
01/15	Queen Street, Portsmouth	North	From a point 63 metres east of its junction with Cross Street eastwards to a point 25 metres east of its junction with York Place	To permit free movement of tramcars
01/16	Queen Street, Portsmouth	North	From a point 94 metres east of its junction with York Place eastwards for a distance of 35 metres	To permit free movement of tramcars
01/16	Queen Street, Portsmouth	North	From a point 141 metres east of its junction with York Place eastwards to its junction with Alfred Road	To mitigate traffic congestion
01/15	Cross Street, Portsmouth	Both	From its junction with Queen Street northwards for a distance of 11 metres	To mitigate traffic congestion

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
01/15	North Street, Portsmouth	Both	From its junction with Queen Street northwards for a distance of 12 metres	To mitigate traffic congestion
01/15	York Place, Portsmouth	Both	From its junction with Queen Street northwards for a distance of 16 metres	To mitigate traffic congestion
01/16	Queen Street, Portsmouth	South	From its junction with Anglesea Road westwards to a point 4 metres west of its junction with Lion Terrace	To mitigate traffic congestion
01/16	Queen Street, Portsmouth	South	From a point 31 metres west of its junction with Lion Terrace westwards for a distance of 15 metres	To mitigate traffic congestion
<i>In the City of Portsmouth</i>				
01/15 01/16	Queen Street, Portsmouth	South	From a point 98 metres west of its junction with Lion Terrace westwards to a point 37 metres west of Bishop Street	To mitigate traffic congestion
01/15	Queen Street, Portsmouth	South	From a point 52 metres west of its junction with Bishop Street westwards to its junction with The Hard	To permit free movement of tramcars
01/15	St James's Street, Portsmouth	Both	From its junction with Queen Street southwards for a distance of 11 metres	To mitigate traffic congestion

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
01/16	Lion Terrace, Portsmouth	Both	From its junction with Queen Street southwards for a distance of 8 metres	To mitigate traffic congestion
01/16	Edinburgh Road, Portsmouth	North	From its junction with Alfred Road eastwards for a distance of 29 metres	To permit free movement of trams
01/16	Edinburgh Road, Portsmouth	North	From a point 59 metres east of its junction with Alfred Road eastwards for a distance of 8 metres	To permit free movement of tramcars
01/16	Edinburgh Road, Portsmouth	North	From a point 74 metres east of its junction with Alfred Road eastwards for a distance of 7 metres	To permit free movement of tramcars
01/16	Edinburgh Road, Portsmouth	North	From a point 99 metres east of its junction with Alfred Road eastwards for a distance of 8 metres	To permit free movement of tramcars
01/16	Edinburgh Road, Portsmouth	North	From a point 125 metres east of its junction with Alfred Road eastwards to its junction with Unicorn Road	To permit free movement of tramcars
01/16	Edinburgh Road, Portsmouth	South	From its junction with Stanhope Road westwards for a distance of 29 metres	To permit free movement of tramcars
01/16	Edinburgh Road, Portsmouth	South	From a point 109 metres west of its junction with Stanhope Road	To permit free movement of tramcars

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			westwards to its junction with Anglesea Road	
01/16	Stanhope Road, Portsmouth	East & North	Entire length	To permit free movement of tramcars
01/16	Stanhope Road, Portsmouth	South	From its junction with Commercial Road (South) westwards for a distance 87 metres	To permit free movement of tramcars
01/16	Stanhope Road, Portsmouth	West	From a point 147 metres west and north of its junction with Commercial Road (South) northwards to its junction with Edinburgh Road	To permit free movement of tramcars
01/16	Station Street, Portsmouth	North	From its junction with Commercial Road (North) eastwards to its junction with Slindon Street	To mitigate traffic congestion
<i>In the City of Portsmouth</i>				
01/16	Station Street, Portsmouth	South	From its junction with Commercial Road (South) eastwards to the extended western kerbline of Slindon Street	To mitigate traffic congestion
01/16	Commercial Road (North), Portsmouth	West	From its junction with Stanhope Road northwards for a distance of 15 metres	To permit free movement of tramcars
01/16	Commercial Road (North), Portsmouth	East	From its junction with Station Street northwards for a distance of 19 metres	To permit free movement of tramcars

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
01/16	Commercial Road (South), Portsmouth	East	From its junction with Station Street southwards for a distance of 19 metres	To mitigate traffic congestion
01/16	Surrey Street, Portsmouth	Both	From its junction with Station Street northwards for a distance of 15 metres	To permit free movement of tramcars
01/16	Slindon Street, Portsmouth	West	From its junction with Station Street northwards for a distance of 10 metres	To mitigate traffic congestion

(2) No Stopping At Any Time (except for Buses)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
02/02	West Street, Fareham	North	From a point 45 metres east of its junction with The Avenue eastwards for a distance of 12 metres	Bus Stop
02/01	West Street, Fareham	North	From a point 67 metres west of its junction with Trinity Street eastwards for a distance of 19 metres	Bus Stop
02/01	West Street, Fareham	South	From a point 109 metres west of its junction with Kings Road westwards for a distance of 20 metres	Bus Stop
<i>In the Borough of Gosport</i>				
02/05	Wych Lane, Gosport	West	From its junction with A32 Fareham Road southwards	To permit buses to stop in Wych Lane

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			to a point 52 metres south of its junction with Tukes Avenue	
02/05	Wych Lane, Gosport	East	From its junction with A32 Fareham Road southwards for a distance of 48 metres	To permit buses to stop in Wych Lane
02/05	Wych Lane, Gosport	East	From a point 78 metres south of its junction with A32 Fareham Road southwards to a point 72 metres south of its junction with Morris Close	To permit buses to stop in Wych Lane
02/08	Rowner Road, Gosport	North	From a point 40 metres east of its junction with Grange Road Roundabout eastwards for a distance of 12 metres	Bus Stop
<i>In the Borough of Gosport</i>				
02/12	Forton Road, Gosport	North	From a point 114 metres east of its junction with Mill Lane eastwards for a distance of 19 metres	Bus Stop
02/12	Forton Road, Gosport	South	From a point 103 metres east of its junction with George Street westwards for a distance of 12 metres	Bus Stop
02/12	Forton Road, Gosport	South	From a point 26 metres west of its junction with Victoria Street westwards for	Bus Stop

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			a distance of 17 metres	
02/12	Forton Road, Gosport	South	From a point 161 metres west of its junction with Albert Street westwards for a distance of 21 metres	Bus Stop
02/12	Forton Road, Gosport	North	From a point 87 metres east of its junction with Parham Road eastwards for a distance of 20 metres	Bus Stop
02/13	Mumby Road, Gosport	North	From a point 43 metres west of its junction with Weevil Lane eastwards for a distance of 15 metres	Bus Stop
02/13	Mumby Road, Gosport	South	From a point 122 metres west of its junction with Clarence Road westwards for a distance of 12 metres	Bus Stop
02/13	South Street, Gosport	North	From a point 100 metres east of its junction with Thorngate Way eastwards for a distance of 12 metres	Bus Stop
02/13	South Street, Gosport	South	From a point 45 metres east of the extended eastern kerbline of Thorngate Way westwards for a distance of 12 metres	Bus Stop

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
02/14	The Esplanade, Gosport	North	From its junction with South Street eastwards for a distance of 53 metres	Access Road to Gosport Bus Station
02/14	The Esplanade, Gosport	South	From its junction with South Street eastwards for a distance of 48 metres	Access Road to Gosport Bus Station
<i>In the City of Portsmouth</i>				
02/16	Queen Street, Portsmouth	North	From a point 129 metres east of its junction with York Place eastwards for a distance of 12 metres	Bus Stop
02/16	Queen Street, Portsmouth	South	From a point 4 metres west of its junction with Lion Terrace westwards distance of 12 metres	Bus Stop
02/15	Queen Street, Portsmouth	South	From a point 37 metres west of its junction with Bishop Street westwards for a distance of 15 metres	Bus Stop

(3) No Stopping At Any Time (except for Buses and Cash Vans)

<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
02A/15	Queen Street, Portsmouth	North	From a point 13 metres west of its junction with Cross Street eastwards for a distance of 20 metres	Bus Stop and to ensure close servicing for transfers of cash and valuables

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(4) No Stopping At Any Time (except for Cash Vans)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
03/01	West Street, Fareham	North	From a point 28 metres west of its junction with Osborn Road South eastwards for a distance of 10 metres	To ensure close servicing for cash transfers
03/01	West Street, Fareham	North	From a point 74 metres east of its junction with Osborn Road South eastwards for a distance of 10 metres	To ensure close servicing for transfers of cash and valuables
03/01	West Street, Fareham	South	From a point 19 metres east of its junction with Hartlands Road westwards for a distance of 10 metres	To ensure close servicing for cash transfers

(5) No Waiting At Any Time

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
05/02	The Avenue, Fareham	North	From a point 95 metres east of its junction with Gudge Heath Lane eastwards to its junction with Western Way	Replaces No Waiting 8am-10pm
05/02	The Avenue, Fareham	South	From a point 8 metres east of its junction with Paxton Road eastwards to its junction with Western Way	Replaces No Waiting 8am-10pm
05/02	Unnamed Access Road to Railtrack	West	From its junction with The Avenue northwards for	To control commuter parking

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
	Car Park (upper level), Fareham		a distance of 28 metres	
05/02	Unnamed Access Road to Railtrack Car Park (upper level), Fareham	West	From a point 48 metres north of its junction with The Avenue northwards to the entrance to the Car Park	To control commuter parking
05/02	Unnamed Access Road to Railtrack Car Park (upper level), Fareham	East	From its junction with The Avenue northwards to the entrance to the Car Park	To control commuter parking
<i>In the Borough of Fareham</i>				
05/01	Unnamed Service Road to rear of 217-227 West Street and 1 Grove Road, Fareham	Both	Entire length	To maintain rear access to premises
05/01	Russell Place, Fareham	Both	Entire length	To maintain rear access to premises
05/01	Unnamed Service Road at rear of 145-161 West Street, Fareham	Both	Entire length	To maintain rear access to premises
05/01	Maytree Road, Fareham	West	From a point 17 metres south of its junction with West Street northwards for a distance of 6 metres	To protect new access road
<i>In the City of Portsmouth</i>				
05/15	Havant Street, Portsmouth	West	From its junction with Queen Street southwards for a distance of 22 metres	To regulate parking
05/15	Havant Street, Portsmouth	East	From its junction with Queen Street southwards for	To regulate parking

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			a distance of 24 metres	
05/15	Cross Street, Portsmouth	Both	From a point 11 metres north of its junction with Queen Street northwards to its junction with Cumberland Street	To mitigate traffic congestion
05/15	Curzon Howe Road, Portsmouth	West	From its junction with Queen Street southwards for a distance of 27 metres	To regulate parking
05/15	Curzon Howe Road, Portsmouth	East	From its junction with Queen Street southwards for a distance of 25 metres	To regulate parking
05/15	North Street, Portsmouth	Both	From a point 12 metres north of its junction with Queen Street northwards for a distance of 15 metres	To regulate parking at traffic signals
05/15	St James's Street, Portsmouth	West	From a point 11 metres south of its junction with Queen Street southwards for a distance of 18 metres	To regulate parking at traffic signals
05/16	Lion Terrace, Portsmouth	East	From a point 28 metres south of its junction with Queen Street southwards for a distance of 38 metres	To regulate parking
05/16	Stanhope Road, Portsmouth	West	From a point 87 metres west of its junction with Commercial Road northwards for	To regulate parking

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			a distance of 10 metres	

(6) No waiting (Daytime)

<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
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In the Borough of Gosport

06/13	Proposed Access Road to Area 5, Gosport	Both	From its junction with South Street northwards for a distance of 30 metres	(Monday-Saturday) (8am-6pm)
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In the City of Portsmouth

06/16	Unicorn Road, Portsmouth	West	From a point 32 metres north of its junction with Edinburgh Road northwards for a distance of 33 metres	(Monday-Saturday) (8am-6pm)
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(7) Limited Waiting (20 minutes)

<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
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In the Borough of Gosport

07/12	Forton Road, Gosport	North	From a point 133 metres east of its junction with Mill Lane eastwards for a distance of 12 metres	To regulate waiting near to tram stop
07/12	Forton Road, Gosport	North	From a point 112 metres east of its junction with Parham Road eastwards for a distance of 15 metres	Additional parking provision
07/12	Forton Road, Gosport	South	From a point 14 metres west of its junction with George Street westwards for	Replaces existing Limited Waiting on southside of road

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			a distance of 12 metres	
07/12	Forton Road, Gosport	South	From a point 20 metres west of its junction with Leonard Road westwards for a distance of 15 metres	Replaces existing Limited Waiting on southside of road
07/12	Forton Road, Gosport	South	From a point 102 metres west of its junction with Albert Street westwards for a distance of 30 metres	To regulate waiting near to tram stop

(8) Limited Waiting (40 minutes)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
08/01	West Street, Fareham	South	From a point 180 metres west of its junction with Kings Road westwards for a distance of 30 metres	Replaces Limited Waiting on north side of road

(9) Limited Waiting (1 hour)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
09/02	Unnamed Access Road to Railtrack Car Park (upper level), Fareham		From a point 28 metres north of its junction with The Avenue northwards for a distance of 20 metres	To provide Limited Waiting for adjacent business premises
<i>In the City of Portsmouth</i>				
09/16	Lion Terrace, Portsmouth	West	From a point 49 metres south of its junction with	Kerbside parking to be established

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			Queen Street southwards for a distance of 11 metres	
09/16	Lion Terrace, Portsmouth	East	From a point 8 metres south of its junction with Queen Street southwards for a distance of 20 metres	90 degree parking bays to be established
09/16	Lion Terrace, Portsmouth	West	From a point 15 metres south of its junction with Queen Street southwards for a distance of 34 metres	90 degree parking bays to be established
09/16	Queen Street, Portsmouth	South	From a point 51 metres west of its junction with Lion Terrace westwards for a distance of 42 metres	Retains existing Limited Waiting

(10) Limited Waiting (3 hours)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the City of Portsmouth</i>				
10/15	Queen Street, Portsmouth	North West	From a point 17 metres southwest of the extended western kerbline of Wickham Street northeastwards for a distance of 17 metres	Additional parking provision
10/15	Queen Street, Portsmouth	North	From a point 7 metres northeast of the extended western kerbline of Wickham Street eastwards to a point 44	Retains and extends existing Limited Waiting

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			metres west of Admiralty Road	

(11) Goods Vehicle Loading/Unloading

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
11/01	West Street, Fareham	North	From a point 131 metres east of its junction with Grove Road eastwards for a distance of 25 metres	To provide loading/unloading facilities for local shops
11/01	West Street, Fareham	North	From a point 48 metres west of its junction with Trinity Street eastwards for a distance of 18 metres	To provide loading/unloading facilities for local shops
11/01	West Street, Fareham	South	From a point 39 metres west of its junction with Hartlands Road westwards for a distance of 29 metres	To provide loading/unloading facilities for local shops
11/01	West Street, Fareham	South	From a point 140 metres west of its junction with Kings Road westwards for a distance of 35 metres	To provide loading/unloading facilities for local shops
11/01	West Street, Fareham	South	From a point 215 metres west of its junction with Kings Road westwards for a distance of 34 metres	To provide loading/unloading facilities for local shops

In the Borough of Gosport

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
11/12	Forton Road, Gosport	South	From a point 26 metres west of its junction with George Street westwards for a distance of 16 metres	To provide loading/unloading for local shops
11/12	Forton Road, Gosport	South	From a point 9 metres west of its junction with Victoria Street westwards for a distance of 17 metres	To provide loading/unloading for local shops
11/13	North Cross Street, Gosport	East	From a point 40 metres south of its junction with Mumby Road southwards for a distance of 42 metres	To provide loading/unloading facilities for local shops
11/14	The Esplanade, Gosport		From a point 48 metres east of its junction with South Street eastwards for a distance of 20 metres	To provide loading/unloading facilities for local shops
<i>In the City of Portsmouth</i>				
11/15	Queen Street, Portsmouth	North	From a point 33 metres east of its junction with Cross Street eastwards for a distance of 25 metres	To provide loading/unloading facilities for local shops
11/16	Queen Street, Portsmouth	South	From a point 16 metres west of its junction with Lion Terrace westwards for a distance of 15 metres	To provide loading/unloading facilities for local shops

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PART II PARKING PLACES

(12) Disabled Persons Parking Places

<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
<i>In the Borough of Fareham</i>				
12/01	Grove Road, Fareham	West	From a point 51 metres north of its junction with West Street northwards for a distance of 5 metres	Replaces existing Limited Waiting
12/01	West Street, Fareham	North	From a point 156 metres east of its junction with Grove Road eastwards for a distance of 5 metres	New provision
12/01	West Street, Fareham	North	From a point 34 metres east of its junction with Osborn Road South eastwards for a distance of 10 metres	New provision
12/01	Osborn Road South, Fareham	West	From a point 109 metres north of its junction with West Street southwards for a distance of 5 metres	Replaces existing Limited Waiting
12/01	West Street, Fareham	South	From a point 31 metres east of its junction with Hartlands Road westwards for a distance of 12 metres	New provision
12/01	Kings Road, Fareham	East	From a point 10 metres south of its junction with Queens Road northwards for	New provision

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<i>(1)</i> No.	<i>(2)</i> Road	<i>(3)</i> Side	<i>(4)</i> Description	<i>(5)</i> Notes
			a distance of 5 metres	
12/01	West Street, Fareham	South	From a point 175 metres west of its junction with Kings Road westwards for a distance of 5 metres	New provision
12/01	West Street, Fareham	South	From a point 210 metres west of its junction with Kings Road westwards for a distance of 5 metres	New provision
12/01	Maytree Road, Fareham	West	From a point 22 metres south of its junction with West Street northwards for a distance of 5 metres	Replaces existing Limited Waiting
<i>In the Borough of Gosport</i>				
12/12	Forton Road, Gosport	North	From a point 107 metres east of its junction with Parham Road eastwards for a distance of 5 metres	New provision
12/12	Forton Road, Gosport	South	From a point 15 metres west of its junction with Leonard Road westwards for a distance of 5 metres	New Provision
<i>In the City of Portsmouth</i>				
12/15	Queen Street, Portsmouth	North West	From a point 22 metres south-west of the extended western kerbline of Wickham Street north-eastwards for	New provision

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			a distance of 5 metres	
<i>In the City of Portsmouth</i>				
12/15	Queen Street, Portsmouth	North	From a point 44 metres west of its junction with Admiralty Road eastwards for a distance of 5 metres	New provision
12/15	Queen Street, Portsmouth	North	From a point 40 metres east of its junction with Admiralty Road eastwards for a distance of 5 metres	New provision
12/15	Queen Street, Portsmouth	North	From a point 58 metres east of its junction with Cross Street eastwards for a distance of 5 metres	New provision
12/16	Edinburgh Road, Portsmouth	North	From a point 67 metres east of its junction with Alfred Road eastwards for a distance of 7 metres	New provision
12/16	Edinburgh Road, Portsmouth	South	From a point 29 metres west of its junction with Stanhope Road westwards for a distance of 5 metres	New provision
12/16	Edinburgh Road, Portsmouth	South	From a point 104 metres west of its junction with Stanhope Road westwards for a distance of 5 metres	New provision
12/16	Stanhope Road, Portsmouth	West	From a point 97 metres west of	New provision

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			its junction with Commercial Road northwards for a distance of 5 metres	
12/16	Lion Terrace, Portsmouth	West	From a point 8 metres south of its junction with Queen Street southwards for a distance of 7 metres	90 degree parking bays to be established
12/16	Queen Street, Portsmouth	South	From a point 46 metres west of its junction with Lion Terrace westwards for a distance of 5 metres	New provision
12/16	Queen Street, Portsmouth	South	From a point 93 metres west of its junction with Lion Terrace westwards for a distance of 5 metres	New provision

(13) Wedding and Funeral Cars

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
<i>In the Borough of Fareham</i>				
13/01	Hartland's Road (Southern Section), Fareham	North East	From a point 3 metres south east of its junction with Western Road south eastwards for a distance of 12 metres	To provide parking for official cars for weddings and funerals at Sacred Heart Catholic Church
<i>In the City of Portsmouth</i>				
13/16	Edinburgh Road, Portsmouth	North	From a point 29 metres east of its junction with Alfred Road eastwards for a	To provide parking for official cars for weddings and funerals

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Side</i>	<i>(4)</i> <i>Description</i>	<i>(5)</i> <i>Notes</i>
			distance of 30 metres	at the Catholic Cathedral

PART III

DIRECTION OF TRAFFIC

(14) One Way

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Fareham</i>		
14/01	Unnamed service road at rear of 145-161 West Street, Fareham between Osborn Road South and Trinity Street	Permitted movement—westwards only
14/01	Western Road, Fareham between Hartlands Road (Southern section) and Queens Road	Permitted movement—south and westwards only
<i>In the Borough of Gosport</i>		
14/13	Thorngate Way, Gosport from its junction with South Cross Street to its junction with South Street	Permitted movement—westwards and southwards only
14/13	Service Road to Area 6, Gosport Town Centre from its junction with South Street to its junction with South Cross Street	Permitted movement—north and westwards only
<i>In the City of Portsmouth</i>		
14/15	Havant Street, Portsmouth from its junction with Benbow Place to its junction with Queen Street	Permitted movement—northwards only
14/15	Hawke Street, Portsmouth from its junction with Queen Street to its junction with Benbow Place	Permitted movement—southwards only
14/15	Curzon Howe Road, Portsmouth from its junction with Queen Street to its junction with Kent Street	Permitted movement—southwards only

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<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
14/15	Bishop Street, Portsmouth from its junction with Queen Street to its junction with Kent Street	Permitted movement—southwards only

(15) One Way (except for Tramcars)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Gosport</i>		
15/13	North Cross Street, Gosport from its junction with North Street to its junction with South Cross Street	Permitted movement—southwards only
15/13	South Cross Street, Gosport from its junction with North Cross Street to its junction with South Street	Permitted movement—southwards only

(16) One Way (except for Buses, Tramcars and Cycles)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Fareham</i>		
16/01	West Street, Fareham between Osborn Road South and Trinity Street	Permitted movement—westwards only

17) No Right Turn

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Gosport</i>		
17/12	Mumby Road, Gosport at its junction with Spring Garden Lane Link Road	Prohibited movement—right turn for eastbound traffic
<i>In the City of Portsmouth</i>		
17/15	Queen Street, Portsmouth at its junction with Hawke Street	Prohibited movement—right turn for eastbound traffic
17/15	Queen Street, Portsmouth at its junction with Bishop Street	Prohibited movement—right turn for eastbound traffic
17/15	Aylward Street, Portsmouth at its junction with Queen Street	Prohibited movement—right turn northbound traffic

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PART IV

PROHIBITION ON ACCESS

(18) Buses, Tramcars and Cycles Only

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the City of Portsmouth</i>		
18/16	Queen Street, Portsmouth between a point 18 metres west of its junction with Alfred Road and that junction	Eastbound towards Edinburgh Road
18/16	Edinburgh Road, Portsmouth between its junction with Alfred Road / Anglesea Road and a point 28 metres east of that junction	Eastbound and westbound from and towards Queen Street

(19) Prohibition of Driving

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Gosport</i>		
19/13	Existing Access Road to Area 5, Gosport Town Centre from its junction with South Street northwards to a point 5 metres therefrom	All movements prohibited
19/14	The Esplanade, Gosport from a point 62 metres east of its junction with South Street eastwards and southwards for a distance of 50 metres	All movement prohibited

(20) Prohibition of Driving (Except for Tramcars, Delivery and Market Vehicles)

<i>(1)</i> <i>No.</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Direction</i>
<i>In the Borough of Gosport</i>		
20/13	North Cross Street, Gosport from its junction with North Street to its junction with South Cross Street	All movements prohibited
20/13	South Cross Street, Gosport from its junction with North	All movements prohibited

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(1) No.	(2) Description	(3) Direction
	Cross Street to its junction with Thorngate Way	

SCHEDULE 11

Article 63

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

1.—(1) Subject to the following provisions of this paragraph, sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land acquired under this Order, or which is held by the undertaker and is appropriated or used (or about to be used) by it for the purposes of the Order or purposes connected therewith and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1) above references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) above shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that sub-paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 below or Part III of the 1991 Act applies.

(6) In this paragraph

“the 1990 Act” means the Town and Country Planning Act 1990(46);

“public telecommunications operator” means—

(46) 1990 c. 8.

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- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984⁽⁴⁷⁾ applies, to run a public telecommunications system, or
 - (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and
- “public utility undertakers” has the same meaning as in the Highways Act 1980⁽⁴⁸⁾.

Apparatus of statutory undertakers, etc. in stopped up streets

2.—(1) Where a street is stopped up under article 11 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) The undertaker shall give not less than 28 days' notice in writing of its intention to stop up any street under article 11 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

(3) Where notice under sub-paragraph (2) above has been given, any statutory utility whose apparatus is under, in, upon, over, along or across the street may and, if reasonably requested so to do by the undertaker, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(4) Subject to the following provisions of this paragraph, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

- (a) the execution of relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of relocation works.

(5) If in the course of the execution of relocation works under sub-paragraph (3) above—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary in consequence of the construction of the authorised works in order to ensure the continued efficient operation of the undertaking of the statutory utility, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be

⁽⁴⁷⁾ 1984 c. 12.

⁽⁴⁸⁾ 1980 c. 66.

payable to the statutory utility by virtue of sub-paragraph (4) above shall be reduced by the amount of that excess.

(6) For the purposes of sub-paragraph (5) above—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus except in a case where the apparatus as so extended provides more than an equivalent service, and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) above (and having regard, where relevant, to sub-paragraph (5) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7.5 years earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionsary Works)” and dated June 1992 and approved by the Secretary of State on 30th June, 1992, as revised and re-issued from time to time.

(8) Sub-paragraphs (4) to (7) above shall not apply where the authorised works constitute major transport works for the purposes of Part III of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(9) In this paragraph

“apparatus” has the same meaning as in Part III of the 1991 Act;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (3) above; and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications operator as defined in paragraph 1(6) above.

Application of telecommunications code

3.—(1) Paragraph 21 of the telecommunications code shall not apply for the purposes of the authorised works to the extent that such works are regulated by Part XI of the 1990 Act, sections 84 and 85 of the 1991 Act (or regulations made under section 85 of that Act), paragraph 2 above or sub-paragraph (3) below.

(2) Paragraph 23 of the telecommunications code shall apply for the purposes of the authorised works, save—

- (a) in so far as such works are regulated by the 1991 Act or any regulation made under that Act; or
- (b) where the undertaker exercises a right under subsection (4)(b) of section 272 of the 1990 Act or under an order made under that section to remove apparatus.

(3) The temporary stopping up, alteration or diversion of any highway under article 12 of this Order shall not affect any right of a public telecommunications operator under paragraph 9 of the

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telecommunications code in respect of any apparatus which at the time of the stopping up or diversion is in the highway.

(4) In this paragraph—

“apparatus” has the same meaning as in Part III of the 1991 Act;

“public telecommunications operator” has the same meaning as in paragraph 1(6) above;

“telecommunications code” has the same meaning as in Schedule 4 to the Telecommunications Act 1984; and

“the 1990 Act” has the same meaning as in paragraph 1(b).

SCHEDULE 12

Article 64

PROTECTION OF RAILWAY INTERESTS

1. The following provisions of this Schedule shall have effect, unless otherwise agreed in writing between Railtrack and the undertaker and, in the case of paragraphs 3 and 16 below, any other person on whom rights or obligations are conferred by those paragraphs.

2. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by Railtrack for the purposes of this Order;

“the Gosport railway” means the railway or former railway extending from the southern side of The Avenue, Fareham to a line in Gosport drawn between the following National Grid reference points—

459137mE, 101982mN;

459136mE, 101977mN;

459121mE, 101969mN; and

459118mE, 101970mN;

“network”, “operator”, “railway asset”, “railway services” and “station” have the same meaning as in Part I of the Railways Act 1993⁽⁴⁹⁾;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any network (including the Gosport railway) or station owned or operated by Railtrack and so owned and operated at the coming into force of this Order, including any land held or used by it at that date for the purposes of any such network or station;

“the rapid transit system” means the authorised transit system and any rapid transit vehicles;

“South West Trains” means South West Trains Limited or, with respect to Fareham Station, Portsmouth and Southsea Station or Portsmouth Harbour Station, its successors in title as lessees of that station;

⁽⁴⁹⁾ 1993 c. 43.

“specified works” means so much of the authorised works as may be situated upon, across, under or over or within 15 metres of, or may in any way affect, railway property.

3. In so far as the specified works or the acquisition or use of railway property are or may be subject to railway operational procedures, Railtrack and South West Trains shall—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the rapid transit system pursuant to the Order.

4. The undertaker shall not under the powers of this Order acquire or use or acquire new rights over any railway property (other than the Gosport railway) except with the consent of Railtrack which subject to compliance with railway operational procedures, shall not be unreasonably withheld but may be given subject to reasonable conditions.

5.—(1) The undertaker shall not exercise the powers of article 32 of this Order or the powers of section 11(3) of the 1965 Act in respect of any railway property except with the consent of Railtrack which consent, subject to compliance with railway operational procedures, shall not be unreasonably withheld but may be given subject to reasonable conditions.

(2) Except with the consent of Railtrack the undertaker shall not in the exercise of the powers of this Order prevent pedestrian or vehicular access to railway property.

(3) The undertaker shall not exercise the powers of sections 271 or 272 of the Town and Country Planning Act 1990, as applied by Schedule 11 to this Order, in relation to any right of access of Railtrack to railway property, but any such right of access may be diverted with the consent of Railtrack.

(4) The consent of Railtrack under sub-paragraphs (2) and (3) above shall not be unreasonably withheld but may be given subject to reasonable conditions.

6.—(1) For the purposes of this paragraph—

“EMI” means, subject to sub-paragraph (2) below, electromagnetic interference with Railtrack’s apparatus generated by the operation of the undertaker’s apparatus where such interference is of a level which adversely affects the safe operation of Railtrack’s apparatus;

“the undertaker’s apparatus” means any electric lines, circuits, wires, apparatus, equipment, rolling stock and other works of any description owned or used (or intended to be used) by the undertaker for the purposes of operating the authorised transit system; and

“Railtrack’s apparatus” means any lines, circuits, wires, apparatus or equipment owned or used by Railtrack for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph shall apply to EMI only to the extent that such EMI is not attributable to any change to Railtrack’s apparatus carried out after approval of plans under paragraph 8 below for the relevant part of the authorised works giving rise to EMI (unless the undertaker has been notified in writing before the approval of such plans of the intention to make such change).

(3) Subject to sub-paragraph (5) below, the undertaker shall in the design and construction of the authorised transit system and its rolling stock take all measures necessary to prevent EMI and shall establish with Railtrack (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3) above—

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- (a) the undertaker shall consult Railtrack as early as reasonably practicable in order to identify all Railtrack's apparatus which may be at risk of EMI and thereafter shall continue to consult Railtrack (both before and after formal submission of plans under paragraph 8 below) in order to identify all potential causes of EMI and the measures required to eliminate them;
 - (b) Railtrack shall make available to the undertaker all information in Railtrack's possession reasonably requested by the undertaker in respect of Railtrack's apparatus identified pursuant to sub-paragraph (4)(a) above; and
 - (c) Railtrack shall allow the undertaker reasonable facilities for the inspection of Railtrack's apparatus pursuant to sub-paragraph (4)(a) above.
- (5) In any case where it is established that EMI can only reasonably be prevented by modifications to Railtrack's apparatus, Railtrack shall not withhold its consent unreasonably to modifications of that apparatus, but the means of prevention and the method of their execution shall be selected in Railtrack's reasonable discretion and subject to the railway operational procedures, and in relation to such modifications paragraph 8 below shall have effect subject to this sub-paragraph.
- (6) If at any time prior to the opening of the authorised transit system to fare-paying passenger traffic, and notwithstanding any measures adopted pursuant to sub-paragraph (3) above, the testing or commissioning of the authorised transit system or its rolling stock causes EMI then the undertaker shall immediately upon receipt of notification by Railtrack of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5) above) to Railtrack's apparatus.
- (7) In the event of EMI having occurred—
- (a) the undertaker shall afford reasonable facilities to Railtrack for access to the undertaker's apparatus in the investigation of such EMI;
 - (b) Railtrack shall afford reasonable facilities to the undertaker for access to Railtrack's apparatus in the investigation of such EMI; and
 - (c) Railtrack shall make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Railtrack's apparatus or such EMI.
- (8) Where Railtrack approves modifications to Railtrack's apparatus pursuant to sub-paragraphs (5) or (6) above—
- (a) Railtrack shall allow the undertaker reasonable facilities for the inspection of the relevant part of Railtrack's apparatus; and
 - (b) any modifications to Railtrack's apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by the undertaker in accordance with paragraph 11 below.
- (9) To the extent that it would not otherwise do so, the indemnity in paragraph 18 below shall apply to the costs and expenses reasonably incurred or losses suffered by Railtrack in consequence of any EMI to which sub-paragraph (6) applies.
- (10) For the purposes of paragraph 16 below any modification to Railtrack's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.
- (11) In relation to any dispute arising under this paragraph the reference in article 71 above to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.

7.—(1) The undertaker shall, as soon as reasonably practicable following the decision to proceed with the construction of the authorised works, commission a study of the effects of the construction of Work No. 8A under the harbour for the purposes of, and in accordance with, the provisions of this paragraph.

(2) The study shall be carried out by an engineer approved by Railtrack and the undertaker or, in the absence of agreement, approved by the President for the time being of the Institution of Civil Engineers.

(3) The object of the study shall be to investigate the effects of the construction of Work No. 8A (including any dredging associated with that construction), both alone and in combination with each of the other projects which at the date of the carrying out of the study can reasonably be expected to be undertaken in the harbour within 1,000 metres of Portsmouth Harbour Station before or at the same time as the construction of that work, on the foundations of Railtrack's Portsmouth Harbour Station and to identify any measures which may be reasonably required to prevent or minimise any adverse impact from that construction; in particular the study shall take into account the effects of any changes of the tidal regime and currents in the harbour caused by that work (both alone and in combination with each of the other projects mentioned above).

(4) The undertaker shall ensure that the study is completed and the results are available to Railtrack no later than, and as early as reasonably practicable before, the formal submission of plans for Railtrack's approval under paragraph 8 below.

(5) Railtrack shall disclose to the undertaker any similar study undertaken or obtained by it in relation to any project in the harbour and shall, if so required by the undertaker, not unreasonably refuse to accept as sufficient compliance with sub-paragraphs (1) to (3) above a joint study encompassing the requirements of sub-paragraph (3) above or a study which takes as its basis any such similar study which has already been undertaken.

(6) The obligation of disclosure under paragraph (5) above is subject to any requirement of confidentiality applying in relation to any such study, but Railtrack shall use its reasonable endeavours to secure that any such study is not subject to a requirement of confidentiality, or, where it is, to obtain a release from that requirement.

(7) Without prejudice to any other measures which may be required by the engineer under paragraph 9(1) below but subject to the requirement of reasonableness specified in that paragraph, any measures identified in the study as reasonably required in connection with the construction of Work No. 8 shall be treated as protective works which may be required by the engineer under that paragraph.

8.—(1) The undertaker shall before commencing construction of the specified works supply to Railtrack proper and sufficient plans for the reasonable approval of the engineer.

(2) The plans shall provide in particular for—

- (a) the soffit of the tunnel under the railway lines forming part of Work No. 6 and included in plot number 2/8 on the land plans to be no higher than shown on the sections; and
- (b) the fencing off (whether on a temporary or permanent basis or both) of the specified works from railway property where reasonably so required by the engineer (including, if so required, demarcation within the boundaries of railway property) in order to comply with any statutory obligation to fence off railway property.

(3) The specified works shall not be constructed except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration and, in the case of any works subject to railway operational procedures, in compliance with the requirements of those procedures.

(4) The approval of the engineer under this paragraph shall not be unreasonably withheld or delayed and if, within a period of 56 days beginning with the day on which such plans have been

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supplied to Railtrack, the engineer has not intimated his disapproval of the plans and the grounds of his disapproval he shall be deemed to have approved the plans.

(5) If within a period of 56 days beginning with the day on which such plans have been supplied to Railtrack, it gives notice to the undertaker that it desires itself to construct any part of the specified works, being works which do not form part of the tunnel and which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on any railway of Railtrack, then, if the undertaker desires such part of the specified works to be constructed, Railtrack shall construct that part, with all reasonable despatch, on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled and under the supervision (where appropriate and if given) of the undertaker.

(6) In the event of Railtrack not constructing or completing any part of the specified works pursuant to sub-paragraph (5) above with reasonable despatch and to the reasonable satisfaction of the undertaker in accordance with such programme as may be agreed with the undertaker or settled by arbitration, Railtrack shall pay compensation to the undertaker for any loss which it may thereby reasonably sustain.

9.—(1) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works or other alterations or additions to railway property (whether temporary or permanent) which in his reasonable opinion should be carried out in consequence of the specified works, either before the commencement, during the construction or within 12 months of completion of the specified works, in order to ensure the safety or stability of railway property, the continued safe and efficient operation of railway property or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by the specified works).

(2) Subject to compliance where applicable with railway operational procedures all such works specified by the engineer under sub-paragraph (1) above as may be agreed by the undertaker or, failing agreement, settled by arbitration, shall be constructed by Railtrack or, if Railtrack so desires, by the undertaker with all reasonable despatch during the period agreed or settled for such works.

(3) In the case of any such works required to be carried out before the commencement of the specified works, the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that those works have been completed to his reasonable satisfaction.

(4) In the event of Railtrack not constructing or completing any such works with reasonable despatch as required by sub-paragraph (2) above, in accordance with such programme as may have been agreed with the undertaker or settled by arbitration, Railtrack shall pay compensation to the undertaker for any loss which the undertaker may thereby reasonably sustain.

(5) If any other alterations, either permanent or temporary, to railway property are reasonably necessary during the construction of the specified works or during a period of 12 months after the completion thereof in consequence of the construction of the specified works, the engineer may give notice to the undertaker specifying the alterations or additions to be carried out and sub-paragraph (2) above shall apply to works specified under this sub-paragraph as it applies to works specified under sub-paragraph (1) above.

10. The undertaker shall give to the engineer not less than 28 days' notice of its intention to commence the construction of any of the specified works and also, except in emergency (when it shall give such notice as may be reasonably practicable), of its intention to carry out any works for the alteration or reconstruction of the specified works in so far as such works of alteration or reconstruction affect or interfere with railway property.

11. The specified works shall, when commenced, be constructed—

- (a) with all reasonable despatch in accordance with the plans approved or deemed to have been approved or settled in accordance with the requirements of this Schedule;

- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage to railway property as reasonably practicable; and
- (d) so far as is reasonably practicable and consistent with the efficient and economic construction and operation of the specified works, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway or the traffic thereon the operation of any station and the use by passengers of railway property;

and, if any damage to railway property is caused or takes place during and in consequence of the construction of the specified works, the undertaker shall, (so far as consistent with the plans as approved, deemed to have been approved or settled) make good such damage.

12. The undertaker shall—

- (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction, and
- (b) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction of the specified works.

13. Railtrack shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Railtrack under this Schedule during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of construction of those works.

14. Before either Railtrack or the undertaker provide any new illumination or illuminated traffic sign at or in the vicinity of Fareham station, it shall consult the other and comply with any reasonable requirements of that other party made for the purpose of preventing confusion between such illumination or illuminated sign and any signal or other light used for controlling, directing or securing the safety of traffic on the railway or the authorised transit system as the case may be.

15. If at any time after completion of the specified works Railtrack gives notice to the undertaker that the state of maintenance of any part of the specified works not vested in Railtrack appears to be such as adversely affects the operation of railway property, the undertaker shall, on receipt of such notice, take such steps as may be reasonably necessary to put and keep that part of the specified works in such state of maintenance as shall not affect railway property adversely.

16.—(1) Subject to paragraph 19 below, the undertaker shall pay to Railtrack—

- (a) all reasonable costs, charges and expenses incurred by Railtrack and its engineer in considering proposals and giving approval to plans submitted under paragraphs 6 and 8 above (other than in respect of any arbitration), in supplying information under paragraph 19 below, in complying with railway operational procedures in connection with the specified works and, where appropriate, in supervising and monitoring the construction of the specified works;
- (b) all reasonable costs, charges and expenses incurred by Railtrack in constructing any part of the specified works on behalf of the undertaker as provided by paragraph 8(5) above or in constructing any protective or other works under the provisions of paragraph 9 above;
- (c) any additional costs and any losses reasonably incurred by Railtrack by reason of the construction or maintenance of the specified works; and
- (d) any loss or damage occasioned to Railtrack and caused by reason of the failure of the specified work.

(2) The compensation payable under this paragraph shall include a sum equivalent to the relevant costs.

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(3) Subject to the terms of any agreement between Railtrack and the operator of a railway asset regarding the terms of payment of the relevant costs in respect of that operator, Railtrack shall promptly pay to each such operator the amount of any compensation which Railtrack receives under this paragraph which relates to the relevant costs of that operator.

(4) The obligation on the undertaker under this paragraph to pay Railtrack the relevant costs shall, in the event of default by the undertaker, be enforceable direct by the operator concerned against the undertaker.

(5) In this paragraph “relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each operator as a consequence of any restriction of use of a station or Railtrack’s network as a result of the construction or maintenance of the specified works or any such failure of the specified works as is mentioned in sub-paragraph 1(d) above.

(6) The sums payable under this paragraph shall include a capitalised sum in respect of the additional cost to Railtrack of—

- (a) maintaining and renewing any protective works or other additions or alterations to railway property; and
- (b) altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of the specified works.

17. Railtrack shall, on receipt of a request of a receipt from the undertaker, from time to time provide the undertaker free of charge with written estimates of its costs, charges, expenses and other liabilities for which the undertaker is or will become liable under paragraph 16 above and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to that paragraph.

18. The undertaker shall indemnify Railtrack from and against all claims and demands arising out of or in connection with the specified works and the fact that any act or thing may have been done by Railtrack on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Railtrack or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

19. Railtrack shall give to the undertaker reasonable notice of any claim or demand of the type mentioned in paragraph 18 and no settlement or compromise of any such claim or demand shall be made without the prior consent of the undertaker who, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

20. In the assessment of any sums payable to Railtrack under this Schedule there shall not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Railtrack if that action or agreement was not reasonably necessary or was taken or entered into with a view to obtaining payment of those sums or increasing the sums so payable.

21. Nothing in this Schedule shall impose any liability on the undertaker with respect to any damage, cost, expense or loss which is attributable to the negligence of Railtrack or of any person in its employ or its contractors or agents.

22. If the cost to Railtrack of maintaining, working or removing railway property is reduced in consequence of anything done under or pursuant to this Schedule, a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to Railtrack under paragraph 16(6) above.

This note is not part of the Order This Order authorises Hampshire County Council and Portsmouth City Council, acting jointly, to construct and operate a rapid transit system between Fareham, Gosport and Portsmouth (including a tunnel under Portsmouth harbour) and, for that

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purpose compulsorily or by agreement to acquire land and rights in land. It contains a number of protective provisions for the benefit of affected undertakings.

Copies of the works plans, the sections, the land plans and the book of reference are available for public inspection free of charge during working hours at—

Hampshire County Council, The Castle, Winchester, Hampshire SO23 8UD; and
Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth PO1 2AL.