
STATUTORY INSTRUMENTS

1998 No. 1936

The Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998

PART II

WORKS PROVISIONS

Principal powers

Power to construct and maintain 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 (5) 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, canals, non-navigable 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 (5) 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) 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, and
- (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.

(6) Paragraph 23 of the telecommunications code shall apply for the purposes of any works authorised by this Order save insofar as such purposes are regulated by the 1991 Act or any regulations made under that Act.

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 a scheduled work 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 has been 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, cycle track 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 tramcars 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 1993(1) and which are constructed 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 tramcars 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(2), 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 10 to this Order.

(1) S.I.1993/1849.

(2) 1989 c. 29.

Stopping up of streets and extinguishment of rights

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 Part I and Part III of Schedule 4 to this Order and extinguish all vehicular rights of access and egress in each of the streets mentioned in columns (1) and (2) of Part II of that Schedule to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of Parts I, II and III of that Schedule.

(2) No street specified in columns (1) and (2) of Part I of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped 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 III 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 the subject of a stopping up under this article the undertaker may, without making any payment but subject to the provisions of sections 77 to 85E of, and Schedules 1 to 3 to, the Railways Clauses Consolidation Act 1845⁽³⁾ (which, as incorporated by this Order, relate to minerals under the authorised tramroads), 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⁽⁴⁾.

(7) This article is subject to paragraph 2 of Schedule 10 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 (2) below, prevent all persons from passing along the street.

(2) 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.

(3) 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

⁽³⁾ 1845 c. 20.

⁽⁴⁾ 1961 c. 33.

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.

- (4) The undertaker shall not exercise the powers of this article—
- (a) in relation to any street specified as mentioned in paragraph (3) 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 reasonably withheld.

(5) The temporary stopping up, alteration or diversion of any street authorised by this Order shall not affect any right of any telecommunications operator as provided for in accordance with paragraph 9 of the telecommunications code.

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 for the scheduled works shown on the works plan or, where article 6(2) above applies, within the boundaries of the street in question 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;

“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.

Supplemental

Attachment of equipment to buildings for purposes of transit system

19.—(1) Subject to the following provisions of this article, the undertaker may affix to any 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 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 it 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.

(7) In this article—

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

20.—(1) Subject to article 43 below 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(5).

(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 or a local authority,
- (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

21.—(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 11, 17, 162 and 348 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 51 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 50 below 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(6).

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection,
- (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.

Planning permission: supplementary matters

22.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(7) (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975(8), or as incorporated in any tree preservation order), any direction under section 90(2A) of the Town and Country Planning Act 1990(9) deeming planning permission to be granted in relation to works authorised by this Order shall be treated as deeming

(6) 1961 c. 33.

(7) S.I. 1969/17.

(8) S.I. 1975/148.

(9) 1990 c. 8.

the permission to have been granted on application made under Part III of that Act for the purposes of that Part.

(2) Planning permission which is deemed by a direction under section 90(2A) of the Town and Country Planning Act 1990 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

23.—(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,
- (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) 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
- (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) 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.

Mode of construction and operation of transit system

24.—(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 transit system shall be constructed on a gauge of 1,435 millimetres.

(3) Except with the consent of the street authority (which shall not be unreasonably withheld) the authorised street tramway (other than any reserved track tramway) 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 it is laid.

(4) In constructing stations and stopping places for the purposes of the authorised transit system the undertaker shall make provision, in so far as it is in the circumstances both practicable and reasonable and without prejudice to any requirement having effect under or by virtue of the Chronically Sick and Disabled Persons Act 1970⁽¹⁰⁾, for the needs of those members of the public using the authorised transit system whose mobility is impaired.

(10) 1970 c. 44.

Obstruction of construction of transit system

25. 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.