
STATUTORY INSTRUMENTS

1999 No. 1306

The Wirral Tramway Order 1999

PART IV

OPERATION OF TRAMWAY SYSTEM

Power to operate and use tramway system

16.—(1) The undertaker may operate and use the authorised tramway 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 28 below, the undertaker shall, for the purpose of operating the tramway, have the exclusive right—

- (a) to use the rails, foundations, cables, masts, overhead wires and other apparatus used for the operation of the tramway; 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.

Maintenance of approved works etc.

17.—(1) Where pursuant to regulations made under section 41 of the Act (approval of works, plant and equipment) approval has been obtained from the Secretary of State with respect to any works, plant or equipment (including vehicles) forming part of the authorised tramway, 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 tramway.

(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 Secretary of State or the Director of Public Prosecutions.

Power to charge fares

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

Removal of obstructions

19.—(1) If any obstruction is caused to tramcars using the authorised tramway by a vehicle waiting, loading, unloading or breaking down on any part of the tramway, 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 tramcars; 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 tramcars using the authorised tramways by a load falling on the tramway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the tramway; 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
- (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 a 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 Vehicle Excise and Registration Act 1994⁽¹⁾

Traffic control

20.—(1) The undertaker may, for the purposes of, or in connection with the operation of, the authorised street tramways, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of the Act of 1984 or of a character authorised by the Secretary of State on or near any street along which the authorised street tramways are laid.

(2) The undertaker shall consult the traffic authority as to the placing of signs.

(3) Any power conferred by section 65 of the Act of 1984 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 Act of 1984 to place and maintain, or cause to be placed and maintained, traffic signs on or near any street along which the authorised street tramways are laid shall consult with the undertaker as to the placing of any traffic sign which would affect the operation of the authorised street tramways.

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

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

Power to lop trees overhanging tramway

21.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised tramway, 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 tramway or any apparatus used for the purposes of the tramway; or

(1) 1994 c. 22.

(b) from constituting a danger to passengers or other persons using the tramway.

(2) In exercising the powers of 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) 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 Act of 1961.

Trespass on tramroads

22.—(1) Any person who—

- (a) trespasses on any tramroad to which this article relates; or
- (b) trespasses upon any land of the undertaker in dangerous proximity to the tramroads to which this article relates or to any electrical or other apparatus used for or in connection with the operation of the tramroads to which this article relates;

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 tramway nearest the place where the offence is alleged to have been committed.

(3) This article relates to the authorised tramroads and to the tramroads authorised by the Wirral Tramway Light Railway Order 1994(2).

Power to make byelaws

23.—(1) The undertaker may make byelaws regulating the use and operation of, and travel on, the authorised tramway, the maintenance of order on the complete tramway and on tramway premises or other facilities provided in connection with the complete tramway and the conduct of all persons including employees of the undertaker while on tramway 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 complete tramway, 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 complete tramway or other facilities provided in connection with the complete tramway;
- (c) with respect to the prevention of nuisances on tramway premises;
- (d) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within tramway premises;
- (e) for the safe custody and re-delivery or disposal of any property accidentally left on tramway premises and for fixing the charges made in respect of any such property; and
- (f) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the complete tramway or on tramway premises.

(3) In this article, “the complete tramway” means the authorised tramway and the tramway authorised by the Wirral Tramway Light Railway Order 1994, and references to “tramway premises” are references to premises of the undertaker used for or in connection with the operation of the

complete tramway but do not include references to the inside of a tramcar or premises within the boundary of a street.

(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 tramway, 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

24.—(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 British Railways Board,
for making available to the undertaker for the purposes of the operation of its tramway undertaking the services of members of the police force or, as the case may be, members of the British Transport Police Force.

(2) Any such agreement may be made on such terms as to payment or otherwise, and subject to such conditions, as may be specified in the agreement.

(3) Where such an agreement has been made between the undertaker and the British Railways Board, members of the British Transport Police Force may act, in accordance with the terms of the agreement, as constables in, on or in the vicinity of any tramway premises or other facilities used in connection with the authorised tramway notwithstanding the provisions of section 53(1) of the British Transport Commission Act 1949⁽³⁾ (which restricts them to acting in, on or in the vicinity of premises belonging to or leased to or worked by the British Railways Board etc.).

(4) In this article—

- (a) “chief officer of police”, “police authority” and “police force” have the same meaning as in the Police Act 1964⁽⁴⁾;
- (b) the British Transport Police Force means the force organised under the scheme set out in the Schedule to the British Transport Police Scheme 1963 (Approval) Order 1964⁽⁵⁾ made under section 69 of the Transport Act 1962⁽⁶⁾; and
- (c) the reference to “tramway premises” is a reference to premises of the undertaker used for or in connection with the operation of the authorised tramway and includes a reference to the inside of a tramcar.

⁽³⁾ 1949 c. xxix.
⁽⁴⁾ 1964 c. 48.
⁽⁵⁾ S.I. 1964/1456.
⁽⁶⁾ 1962 c. 46.