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STATUTORY INSTRUMENTS

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**1999 No. 2336**

**The Railtrack (Leeds Bridges) Order 1999**

**PART II**  
**WORKS**

*Principal powers*

**Power to construct and maintain scheduled works**

4.—(1) Railtrack may construct and maintain the scheduled works.

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

**Power to construct and maintain ancillary works**

5.—(1) Railtrack may, within the limits of deviation for the scheduled works, do such of the following 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) make, provide and maintain all such approaches, bridges, ramps, means of access, shafts and stagings as Railtrack thinks fit,
- (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter any highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the highway or access way,
- (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient,
- (d) alter or remove any structure erected upon any highway or adjoining land,
- (e) alter the position of apparatus, including mains, sewers, drains and cables,
- (f) alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses, and
- (g) carry out and maintain such other works, of whatever description, as may be necessary or expedient.

(2) Any power authorised by paragraph (1)(b) above which affects a highway shall not be exercised without the written consent of the relevant highway authority, but such consent shall not be unreasonably withheld.

(3) Railtrack may within the Order limits—

- (a) carry out and maintain landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works, and

- (b) carry out and maintain works for the benefit or protection of land affected by the authorised works.

#### **Power to deviate**

- 6. In constructing or maintaining any scheduled work, Railtrack may—
  - (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation for that work so shown, and
  - (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding—
    - (i) three metres upwards, or
    - (ii) one metre downwards.

#### *Streets*

#### **Power to execute street works**

- 7.—(1) Railtrack may, for the purposes of the authorised works, enter upon so much of the street specified in Schedule 2 to this Order as is within the Order limits and may—
  - (a) place apparatus in the street,
  - (b) maintain apparatus in the street or change its position, and
  - (c) execute any works required for or incidental to the authorised works or any works referred to in sub-paragraphs (a) and (b) above (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
- (2) In this article “apparatus” has the same meaning as in Part III of the Street Works Act.

#### **Permanent stopping up of street**

- 8.—(1) Subject to the provisions of this article, Railtrack may, in connection with the construction of the authorised works, permanently stop up the street specified in columns (1) and (2) of Schedule 3 to this Order to the extent specified in column (3) of that Schedule.
- (2) The new street to be substituted for the street to be stopped up under this article, and which is specified in column (4) of that Schedule, shall be completed to the reasonable satisfaction of the street authority and open for public use within three months after all bridge girders have been replaced in connection with Work No. 3.
- (3) Any person who suffers loss by the extinguishment 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 1961 Act.
- (4) This article is subject to paragraph 2 of Schedule 6 to this Order.

#### **Temporary stopping up of streets**

- 9.—(1) Railtrack, during and for the purposes of the execution of the authorised works, may 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, Railtrack may use any street stopped up under the powers of this article as a temporary working site.

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

(4) Railtrack shall not exercise the powers of this article without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The provisions of the Street Works Act mentioned in paragraph (6) below 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 Railtrack under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by Railtrack.

- (6) The provisions of the Street Works Act referred to in paragraph (5) above are—
- section 54 (advance notice of certain works);
  - section 55 (notice of starting date of works);
  - section 59 (general duty of street authority to co-ordinate works);
  - section 60 (general duty of undertakers to co-operate);
  - section 69 (works likely to affect other apparatus in the street);
  - 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.

(7) Any person who suffers loss by the suspension of a private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(8) The exercise of powers under this article is subject to paragraph 1(6) of Part IV of Schedule 7 to this Order.

### **Agreements with street authorities**

- 10.**—(1) A street authority and Railtrack may enter into agreements with respect to—
- (a) the maintenance of the structure of any bridge carrying a street over a railway,
  - (b) any stopping up, alteration or diversion of a street under the powers conferred by this Order, or
  - (c) the execution in the street of any of the works referred to in article 7(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (a) make provision 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.

### *Supplemental powers*

### **Discharge of water**

**11.**—(1) Railtrack 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 Order limits, make openings into, and connections with, the watercourse, sewer or drain.

(2) Railtrack 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) Railtrack 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) Railtrack 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) Railtrack 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<sup>(1)</sup>.

(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 joint planning board,
- (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.

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<sup>(1)</sup> 1991 c. 57.