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STATUTORY INSTRUMENTS

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**2001 No. 1347**

**The Leeds Supertram (Extension) Order 2001**

**PART II**

**WORKS PROVISIONS**

*Principal powers*

**Power to construct works**

6.—(1) The Executive may construct and maintain in the City—

- (a) the tramroads described (as Works Nos. 1, 4, 7, 11, 14, 19, 21 and 23) in Schedule 1 to this Order;
- (b) the street tramways described (as Works Nos. 2, 3, 5, 6, 8, 10, 12, 13, 15 to 18, 20, 22 and 24) in that Schedule; and
- (c) the other scheduled works.

(2) Subject to article 7 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.

(3) Subject to paragraph (6) below, the Executive 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, junctions and stopping places;
- (b) works required for, or in connection with, the control of any traffic (including pedestrians) on the authorised tramway;
- (c) works for the alteration or demolition of any building or structure;
- (d) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (e) works to alter the position of any apparatus or street furniture including mains, sewers, drains and cables;
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and
- (g) works for the benefit or protection of premises affected by the authorised works.

(4) Subject to paragraph (6) below, the Executive 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) Where the Executive lays down conduits for the accommodation of cables or other apparatus for the purposes of the authorised works or associated traffic control, it may provide in, or in connection with, such conduits accommodation for the apparatus of any other person, and manholes

and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between it and such other person.

- (6) Paragraphs (3) and (4) above shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation or limits of widening; or
  - (b) on land within the limits of land to be acquired or used specified in column (1) of Schedule 2 to this Order for the purpose specified in relation to that land in column (2) of that Schedule.

**Power to deviate, etc.**

- 7.—(1) In constructing or maintaining any scheduled work, the Executive may—
- (a) as regards a scheduled work not comprising a street widening, deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation for that work;
  - (b) as regards a scheduled work comprising a street widening, construct that widening within the limits of widening for that work; and
  - (c) deviate vertically from the levels shown on the deposited sections—
    - (i) to any extent not exceeding 3 metres upwards, or
    - (ii) to any extent downwards as may be necessary or convenient.
- (2) The Executive 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.
- (3) The power in paragraph (2) above shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (4) The Executive may in constructing or 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.

*Streets*

**Power to alter layout of streets, etc.**

- 8.—(1) The Executive may alter the layout of, and carry out other ancillary works in, any street in the City specified in column (1) of Schedule 3 to this Order in the manner specified in relation to that street in column (2) of that Schedule.
- (2) The Executive may provide a footpath between Beckett Street and Accommodation Road in the City between points FP1, FP2 and FP3 and between points FP4, FP5 and FP6 and a footpath and cycle track adjacent to Alma Road in the City between points FC1 and FC2.
- (3) Without prejudice to the specific powers conferred by paragraphs (1) and (2) above but subject to paragraph (4) below, the Executive may for the purpose of constructing, maintaining or using the authorised tramways alter the layout of any street within the limits of deviation or limits of widening; and, without prejudice to the generality of the foregoing, the Executive may within those limits—
- (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 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 trams or by carrying out other works for that purpose;
- (d) carry out works for the provision or alteration of parking places;
- (e) carry out works to the carriageway of the street for the purpose of deterring or preventing vehicles other than trams from passing along the authorised tramway; and
- (f) make and maintain crossovers, sidings or passing places.

(4) The powers in paragraph (3) 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 Executive may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, place and maintain in any street within the limits of deviation or limits of widening 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; and
- (b) 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. The Executive may, for the purpose of exercising the powers conferred by article 9 above and the other provisions of this Order, enter upon any street within the limits of deviation or limits of widening 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 any such street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

### **Stopping up of streets and extinguishment of rights**

11.—(1) Subject to the provisions of this article, the Executive may, in connection with the construction of the authorised works, stop up each of the streets in the City mentioned in column (1) of Parts I and II of Schedule 4 to this Order and extinguish any right which persons may have to use vehicles in each of the streets mentioned in column (1) of Part III of that Schedule to the extent specified, by reference to the letters and numbers shown on the relevant plans, in column (2) of Parts I to III of that Schedule.

(2) Notwithstanding the provisions of paragraph (1) above, the Executive shall not extinguish rights of way on cycle in the following streets—

Wood Lane

Raglan Road

Shakespeare Street.

(3) No street specified in columns (1) and (2) of Part I bSchedule 4 (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 either by reference to the letters and numbers shown on the deposited plans or by reference to one of the scheduled works, in either case in column (3) of that Part of that Schedule, has been practically completed to

the reasonable satisfaction of the street authority and is open for use, and the street authority has so certified in writing or (in the event of dispute with the street authority) an arbitrator has so determined upon reference of the dispute to arbitration.

(4) No part of a street specified in column (1) 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 stopped up under this article unless all the land which abuts it falls within one or more of the following categories, namely—

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

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up shall be extinguished; and
- (b) the Executive may, without making any payment appropriate and use for the purposes of its tramway undertaking so much of the site of the street as is bounded on both sides by land owned by the Executive.

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

(7) This article is subject to paragraph 2 of Schedule 9 to this Order.

(8) In this article “cycle” has the same meaning as in the Road Traffic Act 1988<sup>(2)</sup>.

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

**12.**—(1) The Executive 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 Executive shall provide 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 Executive may exercise the powers of this article in relation to the streets specified in column (1) of Schedule 5 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (2) of that Schedule.

(4) The Executive shall not exercise the powers of this article—

- (a) in relation to a street specified and to the extent specified in paragraph (3) above, without first consulting the street authority;
- (b) in relation to any other street or to any other extent, without the consent of the street authority, but such consent shall not be unreasonably withheld.

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(1) 1961 c. 33.

(2) 1988 c. 52.

### **Construction and maintenance of new, altered or diverted streets**

**13.**—(1) Any street to be constructed under this Order, other than any comprised in Works Nos. 1A, 1B, 3C, 4B, 4C, 4D, 6N, 14A and 23A, shall be completed to the reasonable satisfaction of the street 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 street 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 Executive 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) Nothing in this article shall prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the Executive shall not by reason of any duty under this 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.

(4) Nothing in this article shall have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

### **Construction of bridges**

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

### **Construction of Work No. 7 on street**

**15.** Notwithstanding anything in this Order but without prejudice to the provisions of article 7 above, the Executive may, but only with the consent of the Secretary of State, construct the whole or part of Work No. 7 within the limits of deviation for that work as if it were designated by this Order as a street tramway (in which case it shall be treated for the purposes of this Order as if it were so designated).

### **Agreements with street authorities**

- 16.**—(1) A street authority and the Executive 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 the structure of any bridge carrying a tramroad over a street;
  - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; and
  - (d) the execution in the street of any of the works referred to in article 10 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.

### **Level crossings**

**17.**—(1) The Executive may construct the authorised tramroads so as to carry them on the level across the highways specified in Schedule 6 to this Order.

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

(4) The highway authority may enter into agreements with the Executive in 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.

(5) In this article—

“barrier” includes gates;

“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 Road Traffic Regulation Act 1984<sup>(3)</sup>), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

### *Supplementary*

#### **Discharge of water**

**18.**—(1) The Executive 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 within the limits of deviation or limits of widening lay down, take up and alter pipes and may, on any land within those limits, make openings into, and connections with, the watercourse, sewer or drain.

(2) The Executive shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person 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 Executive 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 Executive shall not, in the exercise of the powers conferred by this article, damage or interfere with the beds or banks of any watercourse forming part of a main river.

(5) The Executive 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>(4)</sup>.

(7) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency 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

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(3) 1984 c. 27.

(4) 1991 c. 57.

- (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**

**19.**—(1) Subject to the following provisions of this article the Executive may at its own expense and from time to time carry out such safeguarding works to any building which is within the relevant limits and which lies within 30 metres of any of the authorised works, as the Executive 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; or
- (b) after the completion of the construction of that part of the authorised works, 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 Executive may enter and survey any building falling within paragraph (1) above and any land within the relevant limits belonging to it.

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

- (a) enter the building and any land within the relevant limits belonging to it; and
- (b) where the works cannot be carried out reasonably conveniently without entering land within the relevant limits 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 Executive 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 is 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 43 below.

(7) The Executive 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 Executive shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without prejudice to article 41 below, nothing in this article shall relieve the Executive 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(5).

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection;
- (b) any reference to a building within a specified distance of a work includes—
  - (i) in the case of a work under the surface of the ground, a reference to any building within the specified distance of the point on the surface below which the work is situated, and
  - (ii) where a work has not commenced, a reference to a building within the specified distance of the proposed site of the work;
- (c) “relevant limits” means the limits of deviation, limits of widening or limits of land to be acquired or used; and
- (d) “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, and
  - (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.

### **Planning permission: supplementary matters**

**20.**—(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(6) as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of the Act.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999 as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act 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 1990 Act.

### **Power to survey and investigate land**

**21.**—(1) The Executive may, in relation to any land falling within article 23(1)(a) below, for the purposes of this Order—

- (a) survey or investigate that land;

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(5) 1961 c. 33.

(6) S.I. 1969/17.



- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Executive 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 paragraph (a) above, carry out archaeological investigations on the land;
  - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of the land and making of trial holes under sub-paragraphs (a) to (c) above; 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 Executive—
- (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 Executive shall pay 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 tramway**

- 22.**—(1) The authorised tramway shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.
- (2) The authorised tramway shall be constructed on a nominal gauge of 1,435 millimetres.
- (3) Subject to paragraph (4) below, the authorised street 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.
- (4) In the case of any length of authorised street tramway which is constructed as described in section 7(4) of the 1993 Act as applied by article 5(3) above or which is situated clear of the carriageway, the Executive may, with the consent of the street authority (which consent is not to be unreasonably withheld), construct and maintain the tramway in such a manner that the uppermost surface of the rails is not level with the surrounding surfaces of the street in which they are laid.