
STATUTORY INSTRUMENTS

2002 No. 412

The Chester Guided Busway Order 2002

PART IV

OPERATION OF BUSWAY SYSTEM

Power to operate and use busway system

24.—(1) The Council may operate and use the authorised guided busway and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods (which system is in this Order referred to as “the busway system”).

(2) Subject to paragraph (4) and to article 32, the Council shall, for the purpose of operating the authorised guided busway, have the exclusive right to use the authorised guided busway and any apparatus used for the operation of that busway.

(3) Any person who, without the consent of the Council or other reasonable excuse, uses the authorised guided busway or the apparatus mentioned in paragraph (2) 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) except to the extent that the exercise of the right is constrained by the presence of the apparatus.

Maintenance of approved works etc.

25.—(1) Where pursuant to regulations made under section 41 of the 1992 Act (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 guided busway, 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 guided busway.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, the Council 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

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

Traffic signs

27.—(1) The Council may, for the purposes of, or in connection with the operation of, the busway 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 or near any street along which guided buses using the busway system are run.

(2) Unless in any case it is the traffic authority, the Council—

- (a) shall consult the traffic authority as to the placing of signs, and
- (b) unless the traffic authority are 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 Council as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) 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 or near any street along which the busway system is run shall consult with the Council as to the placing of any traffic sign which would affect the operation of the busway system.

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

Power to fell or lop trees

28.—(1) The council may fell or lop any tree or shrub near any part of the authorised guided busway (or land proposed to be used for that busway), 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 authorised guided busway or any apparatus used for the purposes of the authorised guided busway; or
- (b) from constituting a danger to passengers or other persons using the authorised guided busway.

(2) In exercising the powers in paragraph (1), the Council 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), or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961.

(4) The following, namely—

- (a) an order under section 198(1) of the Town and Country Planning Act 1990 (tree preservation orders); and
- (b) section 211(1) of that Act (which prohibits the doing in a conservation area of any act which might be prohibited by a tree preservation order),

shall not apply to any exercise of the powers in paragraph (1).

Obstruction of construction of busway

29. Any person who, without reasonable excuse, obstructs another person from constructing the authorised guided busway or any other authorised work under the powers conferred by this Order

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Power to make byelaws

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

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

- (a) with respect to tickets issued for travel on the busway 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 busway system or other facilities provided in connection with the busway system including provision for the recovery of the costs involved in removing such an obstruction or interference;
- (c) with respect to the prevention of nuisances or trespass on the busway system;
- (d) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within busway premises;
- (e) for the safe custody and re-delivery or disposal of any property left on busway 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 authorised guided busway or on busway premises.

(3) In paragraphs (1) and (2) references to “busway premises” are references to premises of the Council used for or in connection with the operation of the busway system and include car parks intended to be used in connection with the busway system but do not include references to the inside of a guided bus or premises within the boundary of a highway.

(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), 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 Council in the operation of the busway system, the Council 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 byelaw to be confirmed under this article, the Council 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 Council and shall at all reasonable hours be open to public inspection without payment.

(9) The Council shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the Council 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 Council 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 Council and shall at all reasonable hours be open to public inspection without payment, and the Council shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the Council 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 Council stating—

- (a) that the byelaws were made by the Council,
- (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

31.—(1) Agreements may be made—

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

for making available to the Council for the purposes of the operation of its busway system 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(1), and
- (b) “the British Transport Police Force” means the force organised under the British Transport Police Scheme 1963(2).

Powers of disposal, agreements for operation, etc.

32.—(1) The Council may, 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 busway system or the right to operate the busway system under this Order.

(1) 1964 c. 48.

(2) 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.

(2) Without prejudice to the generality of paragraph (1), the Council 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 busway system, or any part or parts of that system or of any works comprised in it, 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 Council or any other person.

(3) Any agreement under this article may provide (inter alia) for the exercise of the powers of the Council under this Order by any other person and for the transfer to any person of the busway system or any part or parts thereof together with the rights and obligations of the Council in relation thereto.

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

(5) For the avoidance of doubt it is hereby declared that nothing in section 15(2) of the Transport Act 1968(3) (restriction on alteration of charges) shall apply in relation to the operation of the busway system by any person other than the Council, but this paragraph is without prejudice to any provision with respect to charges that may be made in an agreement under this article.

Application of Landlord and Tenant law

33.—(1) This article applies to any agreement for leasing to any person the whole or any part of the busway system or the right to operate the same, and any agreement entered into by the Council with any person for the construction, maintenance, use or operation of the busway system, or any part of that system, 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 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.

Town and country planning

34. The busway system shall be regarded as a road transport undertaking for the purposes of section 262(1) of the Town and Country Planning Act 1990 (meaning of “statutory undertakers”).