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STATUTORY INSTRUMENTS

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**2004 No. 389**

**The Network Rail (West Coast Main Line) Order 2004**

**PART II**

**WORKS PROVISIONS**

*Streets*

**Power to execute street works**

**10.**—(1) Network Rail may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 5 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 any works referred to in sub-paragraphs (a) and (b) (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) This article is subject to paragraph 3 of Schedule 12 to this Order.
- (3) In this article “apparatus” has the same meaning as in Part III of the Street Works Act.

**Permanent stopping up of streets and extinguishment of rights**

**11.**—(1) Subject to the provisions of this article, Network Rail may, in connection with the construction of the authorised works, permanently stop up each of the streets specified in columns (1) and (2) of Parts I and II of Schedule 6 to this Order to the extent specified in column (3) of those Parts of that Schedule.

(2) Subject to paragraph (5), no street specified in columns (1) and (2) of Part I of Schedule 6 to this Order shall be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, and which is specified in relation to it 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; or
- (b) a temporary alternative route, which has been approved by the street authority (such approval not to be unreasonably withheld), is available between the commencement and termination points of the street to be stopped up pending completion of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part II of Schedule 6 to this Order shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) 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) is that—
- (a) Network Rail is in possession of the land,

- (b) there is no right of access to the land from the street concerned,
  - (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) In the case of the stopping up of footpath FP 1R/2293 between points F9 and F10—
- (a) paragraph (2) shall not apply, and
  - (b) the new street to be substituted for that part of that footpath which is specified in relation to it in column (4) of Part I of Schedule 6 shall be completed to the reasonable satisfaction of the street authority as soon as reasonably practicable after the completion of the relevant part of Work Nos. 1 and 2.
- (6) Where a street has been permanently stopped up under this article—
- (a) all rights of way over or along the street so stopped up shall be extinguished (other than, in the case of Ludgate/Tennyson Avenue between points F1/S1 and F2/S2 and Roman Way between points F18/S3 and S4, in the borough of Tamworth, a right of way on foot); and
  - (b) Network Rail may, without making any payment but subject to sections 77 to 85E of, and Schedules 1 to 3 to, the Railways Clauses Consolidation Act 1845 (which relate to minerals under railways) appropriate and use for the purposes of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by Network Rail.
- (7) 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.
- (8) This Article is subject to paragraph 2 of Schedule 12 to this Order and is without prejudice to articles 7 and 8.

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

- 12.**—(1) Network Rail, 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), prevent all persons from passing along the street.
- (2) Without prejudice to the generality of paragraph (1), Network Rail may use any street stopped up under the powers of this article as a temporary working site.
- (3) Network Rail 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) Without prejudice to the generality of paragraph (1), Network Rail may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 7 to this Order within the Order limits.
- (5) Network Rail shall not exercise the powers conferred by this article—
- (a) in relation to any street specified as mentioned in paragraph (4) 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 unreasonably withheld.
- (6) The provisions of the Street Works Act mentioned in paragraph (7), 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 Network Rail 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 Network Rail.

(7) The provisions of the Street Works Act referred to in paragraph (6) 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.

(8) 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.

### **Temporary parking restrictions**

**13.**—(1) Subject to the provisions of this article, Network Rail may prohibit or restrict the waiting or the loading or unloading of vehicles on the specified roads for the purpose of enabling or facilitating access over those roads by vehicles used in the construction of Work Nos. 1 and 2.

(2) A prohibition or restriction under paragraph (1) shall apply for such period of time as shall be determined by Network Rail to be necessary for the purposes of the construction of Work Nos. 1 and 2 and may apply at all times during that period or at such times, on such days or during such periods as may be determined by Network Rail.

(3) Network Rail shall not exercise the powers of this article unless it has—

- (a) consulted with the traffic authority in whose area the roads are situated;
- (b) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority; and
- (c) advertised its intention in such manner as the traffic authority may, within 28 days of its receipt of notice of the undertakers' intention, specify in writing.

(4) Any prohibition or restriction made by Network Rail under paragraph (1) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act.

(5) In this article—

- (a) “the 1984 Act” means the Road Traffic Regulation Act 1984(1);
- (b) “specified roads” means Cherry Street and Cross Street, in the borough of Tamworth, in the county of Staffordshire; and
- (c) expressions used in this article and the 1984 Act shall have the same meaning as in that Act.

### **Access to works**

**14.** Network Rail may, for the purposes of the authorised works—

- (a) form and lay out means of access, or improve existing means of access, to the streets specified in columns (1) and (2) of Schedule 8 to this Order at or about the points marked “A”; and

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(1) 1984 c. 27.

- (b) with the approval of the highway authority (such approval not to be unreasonably withheld), form and lay out means of access, or improve existing means of access, at such other locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised works.

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

**15.**—(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 Network Rail for a period of 24 months from its completion and at the expiry of that period—

- (a) in the case of a highway, by and at the expense of the highway authority; and
- (b) in the case of a new private access, by and at the expense of the owners and occupiers.

(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 Network Rail for a period of 24 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) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail.

(4) Nothing in this article shall prejudice the operation of section 87 of the Street Works Act (prospectively maintainable highways); and Network Rail 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.

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

### **Construction of bridges and tunnels**

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

### **Agreements with street authorities**

**17.**—(1) A street authority and Network Rail may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
- (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).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (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.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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