
STATUTORY INSTRUMENTS

2005 No. 120

The Merseytram (Liverpool City Centre to Kirkby) Order 2005

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Merseytram (Liverpool City Centre to Kirkby) Order 2005 and shall come into force on 11th February 2005.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1984 Act” means the Road Traffic Regulation Act 1984(3);

“the 1990 Act” means the Town and Country Planning Act 1990(4);

“the 1991 Act” means the New Roads and Street Works Act 1991(5);

“the 1992 Act” means the Transport and Works Act 1992;

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000;

“the authorised street tramway” means any street tramway authorised by this Order;

“the authorised tramroad” means any tramroad authorised by this Order;

“the authorised tram system” means the tram system (consisting of the authorised street tramways and the authorised tramroads) authorised by this Order, or any part of that system;

“the authorised works” means the scheduled works and any other works authorised by this Order;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“carriageway” has the same meaning as in the Highways Act 1980(6);

“cycle track” means a way over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988)(7) with or without a right of way on foot;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1984 c. 27.
(4) 1990 c. 8.
(5) 1991 c. 22.
(6) 1980 c. 66.
(7) 1988 c. 52.

“electric line” has the meaning given by section 64(1) of the Electricity Act 1989⁽⁸⁾;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980;

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 6(1)(a) and (2);

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“Merseytravel” means the Merseyside Passenger Transport Executive;

“occupier” means a person occupying land under a tenancy for a period of more than one month (not being a statutory tenant within the meaning of the Rent Act 1977⁽⁹⁾ or the Rent Agriculture Act 1976⁽¹⁰⁾);

“the Order limits” means the permanent limits and the temporary limits;

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“parking place” has the same meaning as in section 32 of the 1984 Act;

“the permanent limits” means the limits of deviation and of land to be acquired or used and the limits of additional land to be acquired or used as shown on the works and land plans, described in the book of reference and (in the case of the additional land) specified in columns (1) and (2) of Schedule 2 to this Order;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“the sections” means the sections included in the works and land plans;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“street tramway” means any part of a tram system which is laid along a street—

- (a) whether or not the section of the street in which its rails are laid may be used by other traffic, or
- (b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“the temporary limits” means the limits of land to be used temporarily as shown on the works and land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 9 to this Order;

“the traffic regulation order plans” means the plans certified by the Secretary of State as the traffic regulation order plans for the purposes of this Order;

“tramcar” means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a street tramway or tramroad;

“tramroad” means any part of a tram system which is not a street tramway;

“tram services” means passenger services utilising the authorised tram system;

“tram system” means a system of transport consisting of a street tramway or a tramroad or any combination of those modes of transport;

⁽⁸⁾ 1989 c. 29.

⁽⁹⁾ 1977 c. 42. See section 2(1) and Schedule 1, as amended by the Housing Act 1980 (c. 51), sections 76 and 153(2) and Schedule 26, and the Housing Act 1988 (c. 50), section 39(1).

⁽¹⁰⁾ 1976 c. 80. See section 4, as amended by the Rent Act 1977, section 155 and Schedule 23, and the Housing Act 1980, section 76(3).

“the tribunal” means the Lands Tribunal;

“vehicle” includes mobile traction unit; and

“the works and land plans” means the plans and sections certified by the Secretary of State as the works and land plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 12(5) of the Applications Rules.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface.

(3) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to points identified by letters, with or without numbers, or by numbers, shall be construed as references to the points so marked on the works and land plans or, in the case of Schedule 10, to the points so marked on the traffic regulation order plans.

(5) All distances, directions, lengths and points stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction, length and point, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

Application of enactments relating to railways

3.—(1) The provisions of the Regulation of Railways Acts 1840 to 1893 shall not apply in relation to the authorised tram system.

(2) The provisions of the Highway (Railway Crossings) Act 1839⁽¹¹⁾ shall not apply in relation to the authorised tram system.

(3) Nothing in this article shall be taken as affecting the application to the authorised tramroads of sections 32 to 34 of the Offences Against the Person Act 1861⁽¹²⁾.

Application of 1991 Act

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part III of the 1991 Act (street works in England and Wales) as major transport works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the Highways Act 1980⁽¹³⁾ (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings).

(2) In Part III of the 1991 Act references, in relation to major highway works, to the highway authority concerned shall, in relation to works which are major transport works by virtue of paragraph (1), be construed as references to Merseytravel.

(3) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

section 56 (directions as to timing);

section 56A (power to give directions as to placing of apparatus);

section 58 (restrictions following substantial road works);

⁽¹¹⁾ 1839 c. 45.

⁽¹²⁾ 1861 c. 100.

⁽¹³⁾ 1980 c. 66.

section 58A (restriction on works following substantial streetworks);
section 73A (power to require undertaker to re-surface street);
section 73B (power to specify timing etc. of re-surfacing);
section 73C (materials, workmanship and standard of re-surfacing);
section 78A (contributions to costs of re-surfacing by undertaker); and
Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) 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 Merseytravel under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act referred to in paragraph (4) are—

section 54 (advance notice of certain works);
section 55 (notice of starting date of works);
section 57 (notice of emergency works);
section 59 (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation); and
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.

(6) Nothing in article 14 of this Order shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and Merseytravel shall not by reason of any duty under that 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; or
- (b) have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

(7) To such extent as is reasonably necessary for protecting the authorised street tramways and their operation and use Merseytravel shall have the same powers as respects reinstatement as a street authority has under section 72 of the 1991 Act.

(8) In its application to the authorised tram system section 93(3) of the 1991 Act shall also permit Merseytravel to make reasonable requirements—

- (a) for allowing it facilities to monitor the execution of the works; and
- (b) for the protection of the authorised tram system.