
STATUTORY INSTRUMENTS

2006 No. 3117

The Network Rail (Thameslink 2000) Order 2006

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain certain works

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

(2) Subject to article 6 (power to deviate), 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) Network Rail may—

- (a) on the land specified in columns (1) and (2) of Part 1 of Schedule 2 (additional works and lands) to this Order, carry out and maintain the works specified in relation to that land in column (3) of that Part of that Schedule;
- (b) at each of the stations specified in column (1) of Part 2 of Schedule 2 to this Order and on the land specified in relation to that station in column (2) of that Part of that Schedule, carry out and maintain the works (being station works) specified in relation to that station in column (3) of that Part of that Schedule;
- (c) on the land specified in columns (1) and (2) of Part 3 of Schedule 2 to this Order, carry out and maintain the works (being works relating to power reinforcement) specified in relation to that land in column (3) of that Part of that Schedule; and
- (d) on the land specified in columns (1) and (2) of Part 4 of Schedule 2 to this Order, carry out and maintain the works (being works relating to signalling equipment) specified in relation to that land in column (3) of that Part of that Schedule;

with all necessary works and conveniences in connection therewith.

(4) In the said Part 3 of Schedule 2, “electrical equipment” means equipment in the supply of traction current to the railway.

Power to construct and maintain ancillary works

5.—(1) Subject to paragraph (3), Network Rail may do such of the following as may be necessary or expedient for purposes ancillary to the construction of the authorised works, namely—

- (a) construct and maintain such offices and other buildings, yards, machinery, plant, apparatus and other works and conveniences as Network Rail thinks fit;
- (b) make, provide and maintain all such approaches, bridges, subways, interchanges, roundabouts, turning places, lifts, stairs, escalators, ramps, passages, means of access, shafts and stagings as Network Rail thinks fit;

- (c) 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;
 - (d) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
 - (e) alter or remove any structure erected upon any highway or adjoining land;
 - (f) alter the position of apparatus, including mains, sewers, drains and cables;
 - (g) alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses.
- (2) Subject to paragraph (3), Network Rail may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for purposes ancillary to the construction of the authorised works.
- (3) Paragraphs (1) and (2)—
- (a) shall only authorise the carrying out or maintenance of works outside the limits of deviation for the scheduled works if the works are carried out on land specified in columns (1) and (2) of Part 1, 2, 3 or 4 of Schedule 2 (additional works and lands) to this Order for the purpose specified in relation to that land in column (3) of that Part of that Schedule; and
 - (b) shall not authorise the carrying out or maintenance of works to alter the course of, or otherwise interfere with, navigable rivers or watercourses.
- (4) Any power authorised by paragraph (1)(c) 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.
- (5) Network Rail 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 of the scheduled works, Network Rail may—
- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation relating to that work shown on those plans or, in the case of Work No. 20, within a distance of 10 metres on either side of the line of that work shown on those plans; and
 - (b) deviate vertically from the levels shown on the deposited sections—
 - (i) in the case of Works Nos. 1, 2, 12, 22, 23 and 24, to any extent not exceeding 0.75 metres upwards,
 - (ii) in the case of Works Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 21, to any extent not exceeding one metre upwards or downwards,
 - (iii) in the case of any of the remaining works, to any extent not exceeding three metres upwards or downwards.

Station works at Blackfriars

7.—(1) Network Rail may, at Blackfriars in the City of London and the London borough of Southwark in the construction of Works Nos. 3, 4, 5, and 6, and within the limits of deviation for those works—

- (a) alter and extend Blackfriars station with all necessary works and conveniences connected therewith, including a canopy over Network Rail’s platforms at that station;
- (b) provide a station pedestrian access incorporating a lift and staircase and a footbridge over Queen Victoria Street between points D1 and D2 connecting with a high level walkway to Network Rail’s platforms at Blackfriars Station;
- (c) stop up the footpath between points F1 and F2 and construct a new footpath between points F1, F3, F4 and F2.

(2) In constructing or maintaining the footbridge referred to in paragraph (1)(b), Network Rail may deviate vertically from the levels shown on the deposited section to any extent not exceeding 0.75 metres upwards or downwards.

Appropriation of works near Blackfriars Bridge

8.—(1) In this article—

“the new works” means the station canopy comprised in the Blackfriars works;

“the original works” means the disused bridge piers alongside Blackfriars bridge and such other works and premises authorised by the 1860 Act as are within the limits of deviation for Works Nos. 3, 4, 5 and 6;

“the 1860 Act” means the London, Chatham and Dover Railway (Metropolitan Extensions) Act 1860(1).

(2) If Network Rail proceeds with the construction of the new works it may do either or both of the following—

- (a) hold, use and appropriate such parts of the original works as it may require for the purposes of the new works or for any purpose ancillary to its undertaking;
- (b) take down and remove such parts of the original works as it does not require for those purposes,

and all the powers and obligations conferred or imposed upon Network Rail by the 1860 Act in relation to such parts of the original works including the obligation to maintain them shall cease to have effect.

Further works at London Bridge

9. Network Rail may, at London Bridge in the London borough of Southwark, in the construction of Works Nos. 13 and 14 or either of them and within the limits of deviation for those works form, alter or extend platforms at Network Rail’s London Bridge station with all necessary works and conveniences connected therewith, including the alteration of the station footbridge, the train shed and the bus interchange.

Disapplication of provision relating to land at Puddle Dock, Blackfriars

10.—(1) In this article “the particular provision” means clause 2(22)(d) of the Underlease dated 11th July 1985 of land and premises at Puddle Dock, Blackfriars, in the City of London made between The Provost and Scholars of the King’s College of Our Lady and Saint Nicholas in Cambridge of

(1) 1860 c. clxxvii.

the one part and the British Railways Board of the other part, the term of years granted by which Underlease is now vested in Network Rail.

(2) Nothing in the particular provision or in any other provision having the same or similar effect shall prevent Network Rail from constructing and maintaining the Blackfriars works.

Disapplication of enactments relating to the Borough Market, Southwark

11. Network Rail may exercise any power conferred by this Order relating to or affecting any land forming part of the Borough Market in the London borough of Southwark notwithstanding any provision in section 62 or 63 of the Charing Cross Railway Act 1859⁽²⁾ or any other enactment contained in a private Act of Parliament; and, accordingly, any such provision shall cease to have effect to the extent that it would be inconsistent with the exercise by Network Rail of any such power.

Release from obligations relating to footway at Bermondsey

12. Network Rail shall cease to be under any obligation (whether imposed by section 9 (as to certain footways) of the South Eastern Railway Act 1896⁽³⁾ or otherwise) to provide, maintain or light a footway between Silwood Street and Trundleys Road in the London borough of Lewisham; and in this article “footway” has the same meaning as in the said Act of 1896.

Disapplication of enactment relating to Balcombe Bridge

13.—(1) In this article “Balcombe Bridge” means the bridge (numbered by Network Rail 145) in the Parish of Balcombe, District of Mid Sussex, County of West Sussex carrying the London to Brighton Railway over Rocks Lane.

(2) Nothing in section 44 (for protection of East Sussex County Council) of the British Transport Commission Act 1960⁽⁴⁾, which relates to Balcombe Bridge, shall apply in relation to Work No. 23 or any other authorised works relating to Balcombe Bridge.

Streets

Power to execute street works

14.—(1) Network Rail may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 (streets subject to street works) 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) (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 9 (provisions relating to statutory undertakers etc.) to this Order.

(3) In this article “apparatus” has the same meaning as in Part 3 of the Street Works Act.

(2) 1859 c. lxxxi.

(3) 1896 c. cxxvi.

(4) 1960 c. xlvii.

Permanent stopping up of streets

15.—(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 1 and 2 of Schedule 4 (streets to be permanently stopped up) to this Order to the extent specified in column (3) of that Schedule.

(2) The street specified in columns (1) and (2) of Part 1 of Schedule 4 (streets to be permanently stopped up) to this Order (being a street to be stopped up for which a substitute is to be provided) shall not be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, and which is specified 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 2 of Schedule 4 (streets to be permanently stopped up) to this Order (being a street to be stopped up for which no substitute is to be provided) 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; or
- (b) there is no right of access to the land from the street concerned; or
- (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) Network Rail may for the purposes of, or for purposes ancillary to, the authorised works in the London borough of Islington, narrow Turnmill Street between points N1 and N2 and Cowcross Street between points N3 and N4; and stop up the portions of those streets lying outside the narrowings.

(6) Network Rail may for the purposes of, or for purposes ancillary to, the authorised works—

- (a) in the London borough of Southwark, install stanchions in any part of Enid Street which lies between points N1 and N2 and any part of Almond Road which lies between points N3 and N4; and
- (b) in the London borough of Lambeth, install stanchions in any part of Waterloo Road which lies between points N1 and N2;

and stop up those streets to the extent occupied by those works.

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

- (a) all rights of way over or along the street so stopped up (other than, in the case of a stopping up under paragraph (1), a right on foot) shall be extinguished; 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(5) (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.

(8) 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 1 of the 1961 Act.

(9) This article is subject to paragraph 2 of Schedule 9 (provisions relating to statutory undertakers etc.) to this Order.

Temporary stopping up of streets

16.—(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 of this article—

- (a) in relation to the streets specified in columns (1) and (2) of Schedule 5 (streets to be temporarily stopped up) to this Order within the Order limits; and
- (b) in the London borough of Southwark, in relation to so much of Southwark Street as lies between its junction with Southwark Bridge Road and Redcross Way; but so that the provisions of paragraph (2) shall not apply.

(5) Network Rail shall not exercise the powers of 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 any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

17.—(1) 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 6 (access to works) to this Order at or about the points marked “A”; and
- (b) with the approval of the highway authority (such approval not to be unreasonably withheld) form and lay out such 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.

(2) The provisions of paragraph (1)(a) in respect of Turnmill Street and Farringdon Road in the London borough of Islington and Withdean Road/Station Road in the City of Brighton and Hove shall extend only to the formation and laying out of pedestrian access or improving existing means of pedestrian access.

Construction and maintenance of new or altered streets

18.—(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 by and at the expense of the highway 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 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) Except as provided in this article and notwithstanding anything in section 46 of the Railways Clauses Consolidation Act 1845⁽⁶⁾ as incorporated in this Order, Network Rail shall not be liable to maintain the surface of any highway under or over which the scheduled works shall be constructed, or the immediate approaches to any such highway.

(5) 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 3 of that Act.

(6) Nothing in this article shall have effect in relation to street works as respects which the provisions of Part 3 of the Street Works Act apply.

Construction of bridges and tunnels

19. 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

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

(6) 1845 c. 20.

- (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 carrying a street over 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 14(1) (power to execute street works).
- (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.

Supplemental powers

Discharge of water

21.—(1) Network Rail 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) Network Rail 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) Network Rail 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) Network Rail 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) Network Rail 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(7).

(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, a joint planning board, an urban development corporation or a harbour authority within the meaning of the Harbours Act 1964(8);
- (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.

(7) 1991 c. 57.

(8) 1964 c. 40.

Protective works to buildings

22.—(1) Subject to the following provisions of this article, Network Rail may at its own expense and from time to time carry out such protective works to any building within the Order limits and lying within 35 metres of any of the authorised works as Network Rail considers to be necessary or expedient.

(2) Protective 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 Network Rail may enter and survey any building falling within paragraph (1) and any land belonging to it.

(4) For the purpose of carrying out protective works under this article to a building Network Rail may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land belonging to it; and
- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and any land belonging to it;
- (c) a right under paragraph (4)(a) to enter a building or land; or
- (d) a right under paragraph (4)(b) to enter land,

Network Rail 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), specifying the protective works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), 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 was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 51 (arbitration).

(7) Network Rail 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) protective 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 protective works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

Network Rail shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Nothing in this article shall relieve Network Rail from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 1 of the 1961 Act.

(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, and
- (c) “protective 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.

Power to survey and investigate land etc.

23.—(1) Network Rail may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as it thinks fit on any such land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on any such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (c); and
- (e) enter on the land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), 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 Network Rail—

- (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) Network Rail shall make 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 1 of the 1961 Act.