
STATUTORY INSTRUMENTS

2011 No. 41

The River Mersey (Mersey Gateway Bridge) Order 2011

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the River Mersey (Mersey Gateway Bridge) Order 2011 and shall come into force on 1st February 2011.

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 1980 Act” means the Highways Act 1980(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 2000 Act” means the Transport Act 2000(6);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised activities” means the construction, carrying out and maintenance of the authorised works, the operation, use and maintenance of the new crossing and the exercise of any power, authority or discretion for the time being vested in or exercisable by the undertaker under this Order or otherwise;

“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;

“bridge roads” means the roads that cross the new bridge and Work Nos. 1b, 1d, 1e, 1f, 3a, 3b, 4b, 4c, 4e, 4f, 4g, 4h, 4i, 4j and 5a;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1990 c. 8.
(5) 1991 c. 22. As amended by the Traffic Management Act 2004 c. 18.
(6) 2000 c. 38.

“concession agreement” means a legally binding arrangement which may be comprised in one or more documents that makes provision for the design, construction, financing, refinancing, operation, maintenance or any other matter in respect of the new crossing;

“concessionaire” means any person with whom the undertaker enters into a concession agreement from time to time together with the successors and assigns of any such person;

“cycle track” has the same meaning as in the 1980 Act;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“exemptions register” means the register of vehicles exempt from tolls maintained by the undertaker in accordance with article 41 (power to charge tolls) and Schedule 12 (register of vehicles exempt from tolls);

“footway” has the same meaning as in the 1980 Act;

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

“the land plans” means the plans certified by the Secretary of State as the land plans for the purpose of this Order;

“the limits of deviation” means the limits of deviation for the scheduled works shown on the works plans;

“the limits of land to be acquired or used” means the limits of land to be acquired or used shown on the land plans;

“local planning authority” has the same meaning as in Part 1 of the 1990 Act;

“local transport plan” means the plan prepared by Halton Borough Council under section 108(3) of the 2000 Act;

“Manchester Ship Canal Acts and Orders 1885-1996” means those Acts and Orders set out in Schedule 13;

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

“motorcycle” means a mechanically propelled vehicle having less than four wheels and, in a case where a cabin is provided, the cabin of which is not so constructed as to enclose the driver and any passenger;

“navigation work” means so much of any authorised work as is in, on, over, or under—

(a) tidal waters or tidal land below the level of mean high-water springs; or

(b) a relevant navigation as the case may be;

“new bridge” means the new bridge comprised in the authorised works together with—

(a) all bridges, passages, means of access, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works; and

(b) all piles, fenders, booms, embankments, abutments, wharves, walls, fences, drains, buildings and any other works in a relevant navigation and the banks, bed and foreshore of the relevant navigation,

constructed or provided in connection with the new bridge;

“new crossing” means the new bridge together with—

(a) the bridge roads; and

(b) any land not forming part of the bridge roads which comprises operational land of the undertaker for the purposes of the new crossing;

“new crossing area” means so much of the land within the order limits being—

- (a) tidal water or tidal land, below the level of mean high-water springs of the River Mersey;
or
- (b) within any other relevant navigation;

“opening day” means the day on which the new crossing is first open for use by the public;

“the Order limits” means any limits of deviation and any limits of land to be acquired or used which are shown on the works plans and the land plans;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981(7);

“registered keeper”, in relation to a motor vehicle means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994(8);

“relevant navigation” means so much of—

- (a) the River Mersey;
- (b) the Manchester Ship Canal;
- (c) the Bridgewater Canal;
- (d) the St Helen’s Canal,

as the context requires;

“relevant navigation authority” means—

- (a) in respect of the Manchester Ship Canal, the Manchester Ship Canal Company and its successors;
- (b) in respect of the Bridgewater Canal, the Manchester Ship Canal Company and its successors;
- (c) in respect of the River Mersey, the Mersey Docks and Harbour Company and its successors;
- (d) in respect of the St Helen’s Canal, Halton Borough Council and its successors,

and references to the relevant navigation authority shall refer to such of the authorities as the context requires;

“the rights of way plans” means the plans certified by the Secretary of State as the rights of way plans for the purposes of this Order;

“the scheduled works” means the works specified in Schedule 1 (scheduled works) or any part of them;

“the sections” means the sections shown on the works plans and certified by the Secretary of State as the sections for the purposes of this Order;

“Silver Jubilee Bridge” means the Silver Jubilee Bridge constructed pursuant to the Cheshire and Lancashire County Councils (Runcorn-Widnes Bridge &c.) Act 1947(9) as amended by the Runcorn - Widnes Bridge Act 1955(10) and the A533 road between its junctions with the A557 Weston Point Expressway and the A533 Daresbury Expressway in Runcorn and Ditton Junction in Widnes carried in part upon that bridge;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

(7) 1981 c. 67.
(8) 1994 c. 22.
(9) 1947 c. xxix.
(10) 1955 c. xxviii.

“subsoil” means subsoil lying more than 1 metre beneath the level of the surface of the land and for this purpose “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a dock, navigation, watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or
- (c) in any other case, ground surface level;

“tidal work” means so much of any work authorised by this Order as is on, over or under tidal waters or tidal land below the level of mean high-water springs;

“tribunal” means the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“the undertaker” means Halton Borough Council;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent) except a public sewer or drain; and

“the works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order.

(2) 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.

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

(4) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands are approximate, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

Application of the 1991 Act

3.—(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 3 of the 1991 Act (street works) as major highway 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 1980 Act (dual carriageways and roundabouts) or are such works executed by the highway authority.

(2) The provisions of the 1991 Act mentioned in paragraph (3) 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 any stopping up, alteration or diversion of a street of a temporary nature by the undertaker 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.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—

- section 54 (advance notice of certain works), subject to paragraph (4);
- section 55 (notice of starting date of works), subject to paragraph (4);
- 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 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.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(5) Nothing in article 11 (construction and maintenance of new or altered streets) shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.