
STATUTORY INSTRUMENTS

2013 No. 2809

The Network Rail (Redditch Branch Enhancement) Order 2013

PART 3

Streets

Street works

8.—(1) Network Rail may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus under the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Public rights of way

9.—(1) With effect from the date of commencement, the sections of the public rights of way (being footpaths) specified in column (3) of Parts 1 and 2 of Schedule 3 (footpaths to be stopped up) and shown marked in red on the footpath stopping up and diversion plan are extinguished.

(2) With effect from the date on which Work No. 1 is first open for use, an alternative section of footpath specified in column (4) of Part 1 of Schedule 3 and as shown marked by vertical zebra hatching on the footpath stopping up and diversion plan is created in accordance with the specification required by the relevant part of the implementation plan.

(3) Subject to paragraph (4), with effect from the date of commencement, the sections of the public rights of way (being footpaths) described in Parts 1 and 2 of Schedule 4 (footpaths to be temporarily suspended) and shown marked in orange on the footpath stopping up and diversion plan may be temporarily suspended until the date on which Work No.1 is first open for use.

(4) The sections of footpath referred to in column (3) of Part 1 of Schedule 4 may not be temporarily suspended until an alternative section of temporary footpath described in Column (4) of Part 1 of Schedule 4 and as shown marked green on the footpath stopping up and diversion plan is provided in accordance with the relevant part of the implementation plan.

(5) With effect from the date on which Work No. 1 is first open for use the section of temporary alternative footpath described in Column (4) of Part 1 of Schedule 4 is to be extinguished.

(6) Section 31 (withdrawal of notices to treat) of the Land Compensation Act 1961 does not apply to any part of any of the Order land that is subject to a public right of way.

(7) If on the date of commencement Network Rail has not taken entry on land that formed part of a public right of way referred to in paragraph (1) or vested in itself such land then Network Rail is deemed on commencement to have taken entry onto such land for the purposes of section 11(1) of the 1965 Act.

Application of the 1991 Act

10.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 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 1980 Act (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to the carrying out of street works under article 8 (street works) whether or not the carrying out of such works 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) have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Access to works

11. Network Rail may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works) and shown on the access to works and traffic regulation plan; and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 12.**—(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 authorised by the Order;
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under any authorised railway;
 - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (d) the carrying out in the street of any of the works referred to in article 8(1) (street works).
- (2) Such an agreement may, without limitation on the scope 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;
 - (b) include an agreement between Network Rail and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.