
STATUTORY INSTRUMENTS

2014 No. 909

**The Network Rail (Norton Bridge
Area Improvements) Order 2014**

PART 3

Streets

Power to alter layout etc. of streets

8.—(1) Network Rail may for the purposes of the authorised development alter the layout of or carry out any works in each street specified in column (1) of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to paragraph (3), Network Rail may, within the Order limits and for the purposes of constructing and maintaining the authorised development, alter the layout of any street and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, Network Rail may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

(3) Network Rail must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

Street works

9.—(1) Network Rail may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (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 temporary apparatus in the street;
- (d) maintain temporary apparatus in the street and permanent apparatus under the street and, in either case, 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 and “in” as referring to apparatus in the street means under, over, across, along or upon the street.

Construction and maintenance of new or altered streets

10.—(1) Any highway work constructed under this Order must be completed to the reasonable satisfaction of the highway authority.

(2) When Network Rail considers that a highway work has been completed, except for any minor item not affecting safety, it must apply to the highway authority in accordance with the provisions of article 44 (procedure in relation to certain approvals etc. other than under Schedule 2) for its approval of the standard to which the work has been carried out.

(3) In the case of a new street, Network Rail must, within 28 days of receiving the approval or deemed approval of the highway authority under article 44, vest the street in the highway authority.

(4) Upon the vesting of the new street in the highway authority, the highway authority must adopt it as a highway maintainable at the public expense.

(5) In the case of a new street, regardless of its adoption by the highway authority, Network Rail must, for a period of 12 months beginning with the date of the highway authority’s approval or deemed approval under article 44 of the standard to which a highway work has been carried out under this Order, and unless otherwise agreed with the highway authority, remedy any defect in the street resulting from the carrying out of the work.

(6) Any work by Network Rail to remedy a defect in a street under this article must be carried out to the reasonable satisfaction of the highway authority.

(7) Network Rail must apply to the highway authority for its approval of the standard to which any remedial work under this article has been carried out.

(8) Network Rail will continue to be liable for the maintenance of the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail regardless of the adoption of the highway by the highway authority or the expiry of any defects period applicable to the street under this article.

(9) In any action against Network Rail in respect of loss or damage resulting from any failure by it to remedy a defect under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that Network Rail had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(10) For the purpose of a defence under paragraph (9), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where Network Rail could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed;

but for the purposes of such a defence it is not relevant to prove that Network Rail had arranged for a competent person to carry out or supervise the remedial work to the part of the street to which the action relates unless it is also proved that Network Rail had given the competent person proper

instructions with regard to the remedial work to the street and that the competent person had carried out those instructions.

- (11) Nothing in this article—
- (a) prejudices the operation of section 87 of the 1991 Act (prospectively maintainable highways); and Network Rail is not, by reason of any duty under this article to remedy a defect in a street, to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
 - (b) has effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Stopping up of streets

11.—(1) Subject to the provisions of this article, Network Rail may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the street plans, in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 5 is to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by Network Rail, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

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

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) Network Rail may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by Network Rail.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

(6) When a street has been stopped up under the provisions of this article, Network Rail must provide to the street authority within 28 days of the stopping up a plan to a scale of not less than 1:500 showing the extent of the stopping up.

Application of the 1991 Act

12.—(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 carried out 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 following provisions of the 1991 Act do not apply in relation to any works carried out under the powers conferred by this Order—

section 56 (directions as to timing);
 section 56A (power to give directions as to placing of apparatus);
 section 58 (restriction on works following substantial road works);
 section 58A (restriction on works following substantial street works);
 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).

(3) The provisions of the 1991 Act mentioned in paragraph (4) (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 temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 13 (temporary stopping up of streets) and the carrying out of works under article 9 (street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

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

section 54 (advance notice of certain works), subject to paragraph (5);
 section 55 (notice of starting date of works), subject to paragraph (5);
 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); 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.

(5) Sections 54 and 55 of the 1991 Act as applied by paragraph (3) 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.

Temporary stopping up of streets

13.—(1) Network Rail, during and for the purposes of carrying out the authorised development, 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 limitation on the scope of paragraph (1), Network Rail may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) Network Rail must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Network Rail must not temporarily stop up, alter or divert or use as a temporary working site any street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

14. Network Rail may, for the purposes of the authorised development and 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

15.—(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 strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any railway authorised by this Order;
- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such agreements 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.

Construction of bridges and tunnels

16. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a railway or a watercourse must be constructed in accordance with the plans and specifications approved by the highway authority.

Level crossing

17.—(1) Subject to paragraph (3), the level crossing specified in columns (1) and (2) of Schedule 6 (replacement and closure of level crossing) is stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of the level crossing referred to in paragraph (1), any right of way over it is extinguished.

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(3) Paragraphs (1) and (2) do not take effect with respect to the level crossing specified in Schedule 6 until the new way to be substituted for it, which is specified in column (4) of that Schedule, has been constructed and completed to the reasonable satisfaction of the highway authority, such approval not to be unreasonably withheld, and is open for use.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.