
STATUTORY INSTRUMENTS

2020 No. 141

**The Midland Metro (Birmingham
Eastside Extension) Order 2020**

PART 2

WORKS PROVISIONS

Streets

Power to alter layout, etc., of streets

10.—(1) The Authority may alter the layout of, and carry out other ancillary works in, any street specified in column (1) of Schedule 2 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2) of that Schedule.

(2) Without limitation on the scope of the specific powers conferred by article 7 (power to construct and maintain works) or paragraph (1) but subject to paragraph (3), the Authority may, for the purpose of constructing, maintaining or using the authorised street tramway, alter the layout of any street along which the tramway is or is to be laid and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, the Authority may—

- (a) increase or reduce the width of the whole or part of any carriageway, kerb, footway, cycle track or verge within the street;
- (b) alter the level of the whole or part of any such carriageway, kerb, footway, cycle track or verge;
- (c) replace or alter the surface or surface treatment of the street;
- (d) reduce the width of the carriageway of the street by forming a reserved area in the street as a stopping place for tramcars or by carrying out other works for that purpose;
- (e) carry out works for the provision or alteration of parking places, loading bays, bus stop clearways, cycle tracks and bus laybys;
- (f) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999⁽¹⁾ and which are carried out in compliance with those Regulations;
- (g) carry out works to the street for the purpose of deterring or preventing vehicles other than tramcars from passing along the authorised tramway; and
- (h) make and maintain crossovers, sidings or passing places.

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

⁽¹⁾ S.I. 1999/1026 was amended by S.I. 2000/1511.

Power to keep apparatus in streets

11.—(1) The Authority may, for the purposes of or in connection with the construction, maintenance and use of the authorised street tramway, place and maintain in any street in which the tramway is or is to be laid or in any other street any work, equipment or apparatus including, without limitation on the scope of that power, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) The powers conferred by this article must not be exercised within the boundaries of a street outside of the Order limits and the limits of deviation without the consent of the street authority, but such consent must not be unreasonably withheld.

(3) In this article—

- (a) “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

Power to execute street works

12.—(1) The Authority may, for the purpose of exercising the powers conferred by article 11 (power to keep apparatus in streets) or any other provision of this Order, enter upon any street and may execute any works required for or incidental to the exercise of those powers including, without limitation on the scope of that power, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) The powers conferred by this article must not be exercised within the boundaries of a street outside of the Order limits and the limits of deviation without the consent of the street authority, but such consent must not be unreasonably withheld.

Stopping up of streets

13.—(1) Subject to the provisions of this article, the Authority may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 3 (streets to be stopped up) to the extent specified, by reference to the letters shown on the works and land plans, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 3 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, 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 for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the Authority, 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) No street specified in columns (1) and (2) of Part 2 of Schedule 3 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Authority 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) 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) the Authority may appropriate and use for the purposes of its tramway undertaking so much of the site of the street as is bounded on both sides by land owned by the Authority.
- (6) Any person who suffers loss by the 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.
- (7) This article is subject to paragraph 2 of Schedule 9 (provisions relating to statutory undertakers etc.).

Temporary stopping up of streets

14.—(1) The Authority may, during and for the purposes of the construction of the authorised works, 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), the Authority may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) The Authority must provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the Authority may exercise the powers conferred by this article in relation to the streets specified in Schedule 4 (streets to be temporarily stopped up) to the extent specified in column (2) of that Schedule.

(5) The Authority must not exercise the powers conferred by 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 which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(6) 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

15. The Authority may, for the purposes of the construction, operation or maintenance of the authorised works, form and lay out such means of access, or improve such existing means of access, at such locations within the Order limits or the limits of deviation as the Authority reasonably requires for the purposes of the authorised works, as may be approved by the highway authority, but such approval must not be unreasonably withheld.

Construction and maintenance of new, altered or diverted highways

16.—(1) Any highway to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must, unless otherwise agreed by the highway authority

and the Authority, be maintained by and at the expense of the Authority for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a highway is altered or diverted under this Order, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the highway authority, unless otherwise agreed, be maintained by and at the expense of the Authority for a period of 12 months from its completion and after the expiry of that period by and at the expense of the highway authority.

(3) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge carrying a highway over a tramroad of the Authority or carrying a tramroad of the Authority over a highway and except as provided in those paragraphs the Authority is not liable to maintain the surface of any highway in, on, under or over which the scheduled works are constructed, or the immediate approaches to any such highway, unless otherwise agreed with the highway authority.

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

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the highway including its use for a tramway, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a highway of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the highway;
- (d) whether the Authority knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway; and
- (e) where the Authority could not reasonably have been expected to repair that part of the highway 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 that the Authority had arranged for a competent person to carry out or supervise the maintenance of that part of the highway to which the action relates unless it is also proved that the Authority had given the competent person proper instructions with regard to the maintenance of the highway and that the competent person had carried out those instructions.

Restoration of streets if street tramway discontinued

17. If the Authority abandons the construction of, or permanently ceases to operate any of, the authorised street tramway (“the discontinued tramway”), it must as soon as reasonably practicable and unless otherwise agreed with the street authority—

- (a) remove from any street in which the discontinued tramway is laid the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the street authority, the portion of the street along which the discontinued tramway was laid, or redundant works, equipment and apparatus were laid, regard being had to—
 - (i) the condition of the street before the tramway was laid; and
 - (ii) the nature of the traffic using the street at the time of the discontinuance.

Agreements with street authorities

- 18.—(1) A street authority and the Authority may enter into agreements with respect to—
- (a) the construction of any new street under the powers conferred by this Order;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) the maintenance of any street along or across which the authorised tramway is laid, or of the structure of any bridge or tunnel carrying a street over or under the authorised tramway;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the execution in the street of any of the works referred to in article 12 (power to execute street works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) provide 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.

Level crossings

19.—(1) The Authority may construct and maintain the authorised tramway so as to enable trams upon it to cross on the level any highway or other road for the time being crossing the route of the system.

(2) The Authority may provide, maintain and operate at or near any level crossing such protective equipment as it may determine.

(3) Any traffic sign placed under this article on or near a highway or other road to which the public has access is to be treated for the purposes of section 64(4)(2) (general provisions as to traffic signs) of the 1984 Act as having been placed as provided by that Act.

(4) Without limitation on the scope of article 10 (power to alter layout, etc., of streets), the Authority may in the exercise of the powers conferred by this article alter the level of any highway or road referred to in paragraph (1).

(5) The highway authority may enter into agreements with the Authority with respect to the construction and maintenance of any level crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(6) In this article—

“level crossing” means the place at which the authorised tramroad crosses a highway or other road on the level under the powers conferred by this article; and

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.