
STATUTORY INSTRUMENTS

2022 No. 1067

**The Network Rail (Huddersfield to Westtown
(Dewsbury) Improvements) Order 2022**

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 and comes into force on 3rd November 2022.

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 1981 Act” means the Acquisition of Land Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2003 Act” means the Communications Act 2003(8);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(9);

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

“authorised works” means the scheduled works and any other works authorised by this Order or any part of them;

“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;

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

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1981 c. 67.
(5) 1984 c. 27.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2003 c. 21.
(9) S.I. 2016/1154.

“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;

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

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

“deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003⁽¹⁰⁾;

“footpath” and “footway” have the same meaning as in the 1980 Act;

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

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

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

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

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN;

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

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the 1981 Act⁽¹¹⁾;

“protective works limits” means the protective works limits shown on the deposited plans;

“the Trust” means the Canal and River Trust;

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

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“the relevant parts of the waterways” means—

- (a) so much of the Huddersfield Broad Canal as is within the Order limits; and
- (b) so much of the Calder and Hebble Navigation as is within the Order limits; and

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

⁽¹⁰⁾ 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

⁽¹¹⁾ 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(2) 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 airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in Network Rail’s railway undertaking.

(3) References in this Order to numbered plots are references to plot numbers on the deposited plans.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on a scheduled work are taken to be measured along the scheduled work.

(5) References in this Order to points by letters, or letters and numbers are construed as references to points on the deposited plans.

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845**(12)** are incorporated in this Order—

section 58**(13)** (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (gates, bridges, &c);

section 71 (power to owners of land to make additional accommodation works), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

section 72 (such works to be constructed under the superintendence of the company’s engineer) and 73 (accommodation works not to be required after five years);

section 75**(14)** (penalty on persons omitting to fasten gates);

section 77 (company not to be entitled to minerals, unless expressly purchased);

sections 78 to 85E**(15)** and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923**(16)**;

section 103**(17)** (penalty on passengers practising frauds on the company);

section 105**(18)** (penalty for bringing dangerous goods on railway), except for the words from “and if any person” to “for every such offence”; and

section 145**(19)** (penalties to be summarily recovered before two justices).

(12) 1845 c. 20.

(13) Section 58 was amended by Section 46 of, and part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101).

(14) Section 75 was amended by section 49 of the Transport and Works Act 1992 (c. 42).

(15) Section 84, as substituted, was amended by part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48). Section 85C, as substituted, was amended by virtue of section 17(2)(a) of the Interpretation Act 1978 (c. 30).

(16) 1923 c. 20.

(17) Section 103 was amended by the Statute Law Revision Act 1892 (c. 19), Part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48).

(18) Section 105 was amended by Part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1983 (c. 48).

(19) Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

(2) Section 12 (as to expense of signals, watchmen, &c.) of the Railways Clauses Act 1863⁽²⁰⁾ is incorporated in this Order.

(3) In those provisions, as incorporated in this Order—

“the company” means Network Rail;

“goods” includes anything conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and any other authorised works;

“the special Act” means this Order; and

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

Application of the 1991 Act

4.—(1) Works executed 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 (street works in England and Wales) of the 1991 Act 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) (which defines what highway authority works are major highway works) of that Act; 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⁽²¹⁾ (dual carriageways and roundabouts) of the 1980 Act.

(2) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

section 56⁽²²⁾ (power to give directions as to timing of street works);

section 56A⁽²³⁾ (power to give directions as to placing of apparatus);

section 58⁽²⁴⁾ (restriction on works following substantial road 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⁽²⁵⁾ (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4), together with other provisions of that Act, which apply in relation to the execution 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

⁽²⁰⁾ 1863 c. 92.

⁽²¹⁾ Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

⁽²²⁾ As amended by Sections 40 and 43 of the Traffic Management Act 2004 (c. 18).

⁽²³⁾ Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

⁽²⁴⁾ As amended by Sections 40 and 51 of the Traffic Management Act 2004 (c. 18).

⁽²⁵⁾ Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18).

Network Rail under the powers conferred by article 14 (stopping up of streets) and article 15 (power to alter layout etc. of streets) and article 16 (temporary stopping up of streets) and the carrying out of works under article 13 (power to execute 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⁽²⁶⁾ referred to in paragraph (3) are—
- section 54⁽²⁷⁾ (advance notice of certain works), subject to paragraph (5);
 - section 55⁽²⁸⁾ (notice of starting date of works), subject to paragraph (5);
 - section 57⁽²⁹⁾ (notice of emergency works);
 - section 59⁽³⁰⁾ (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 were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

- (6) Nothing in article 18 (construction and maintenance of new or altered streets)—
- (a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and Network Rail is not, by reason of any duty under that article to maintain 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 street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Disapplication of legislative provisions

5.—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) regulation 12(1)(a) (requirement for environmental permit) of the 2016 Regulations in relation to the carrying out of a relevant flood risk activity for the purposes of the works;
- (b) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991⁽³¹⁾;
- (c) paragraph 5 (effect of designation) of Schedule 1 (risk management: designation of features) to the Flood and Water Management Act 2010⁽³²⁾;
- (d) paragraph 7 (requirement for approval) of Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010; and

⁽²⁶⁾ Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

⁽²⁷⁾ As amended by section 49(1) of the Traffic Management Act 2004.

⁽²⁸⁾ As amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

⁽²⁹⁾ As amended by section 52(3) of the Traffic Management Act 2004.

⁽³⁰⁾ As amended by section 42 of the Traffic Management Act 2004.

⁽³¹⁾ 1991 c. 59.

⁽³²⁾ 2010 c. 29.

- (e) the provision of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991, which require consent or approval for the carrying out of the works.

(2) In paragraph (1) “relevant flood risk activity” means an activity described in paragraph 3(1) (a), (b) or (c) of Schedule 25 (flood risk activities and excluded flood risk activities) to the 2016 Regulations.

(3) Sections 80(2)(b), 81 and 82 of the Building Act 1984⁽³³⁾ do not apply to the demolition of the whole or part of a building carried out in exercise of the powers under this Order and to which section 80 of the Building Act 1984 otherwise applies.

Disapplication of legislative provisions relating to the surrender of an environmental permit

6.—(1) The following provisions do not apply in relation to any application made by Network Rail pursuant to paragraph (2)—

- (a) regulation 25 (application for the surrender of an environmental permit) of the 2016 Regulations; and
- (b) part 1 of Schedule 5 (Environmental Permits) of the 2016 Regulations.

(2) Subject to paragraph (3) Network Rail may by application to the Environment Agency request the surrender in whole or in part of any environmental permit—

- (a) issued by the Environment Agency to any person; or
- (b) transferred by the Environment Agency to Network Rail,

under the 2016 Regulations for the operation of a regulated facility on the relevant land.

(3) The Environment Agency must accept any application from Network Rail for the surrender in whole or in part of an environmental permit under paragraph (2) provided that Network Rail have submitted to the Environment Agency, and the Environment Agency have approved, plans detailing in relation to the site of the regulated facility subject of an application under paragraph (2) the measures—

- (a) to avoid a pollution risk resulting from the construction and operation of the authorised works on the site of the regulated facility or from the former use of the site as a regulated facility; and
- (b) to return the site of the regulated facility to a satisfactory state upon completion of the construction of the authorised works.

(4) Any approval of the Environment Agency required under paragraph (3)—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Environment Agency may make for the avoidance of a pollution risk resulting from the construction of the authorised works on the site of the regulated facility or from the former use of the site as a regulated facility.

(5) The construction of any authorised works on the site of a regulated facility which is subject of an approval under paragraph (3) must be constructed—

- (a) in accordance with the plans approved or deemed to have been approved under this article; and

(33) 1984 c. 55.

(b) to the reasonable satisfaction of the Environment Agency, and an officer of the Environment Agency is entitled, on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(6) Network Rail must give the Environment Agency—

(a) not less than 14 days' notice in writing of its intention to commence the construction of any authorised works on the site of a regulated facility which is subject of an approval under paragraph (3); and

(b) notice in writing of the completion of such works not less than 7 days' after the date on which such works are first brought into public use.

(7) Any approval given or deemed to have been given by the Environment Agency to a request for approval under paragraph (3) is to be treated as overriding any requirement under the 2016 Regulations for any further environmental permit in consequence of the construction and operation of the authorised works on the site of the regulated facility subject of such an approval.

(8) Any dispute arising between Network Rail and the Environment Agency under this article, if the parties agree, is to be determined by arbitration under article 57 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by Network Rail or the Environment Agency, after notice in writing by one to the other.

(9) In this article—

(a) “the relevant land” means the land numbered 21-086, 21-092, 21-094, 21-101, 21-114, 23-024, 23-035, 23-035a, 23-036, 23-046, 23-050, 23-054, 23-055, 23-056, 23-065, 24-003, 24-004 and 24-006 in the district of Kirklees as shown on the deposited plans

(b) “regulated facility” has the same meaning as in the 2016 Regulations; and

(c) “plans” has the same meaning given in paragraph 17(2) of Part 3 of Schedule 19 to this Order.

Application of local railway enactments

7.—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 38 (company not to obstruct the navigation of the river and canal in constructing or repairing their bridges) of the Manchester and Leeds Railway Act 1836⁽³⁴⁾;

(b) section 100 (regulations as to width and height of bridges for carrying railway over public roads) of the Manchester and Leeds Railway Act 1836;

(c) section 102 (regulating bridges for carrying public roads over railway) of the Manchester and Leeds Railway Act 1836;

(d) section 12 (as to width and height of bridges for carrying railway over public roads) of the Manchester and Leeds Railway Act 1837⁽³⁵⁾;

(e) section 13 (regulating width and ascent of bridges for carrying public roads over railway) of the Manchester and Leeds Railway Act 1837;

(f) section 30 (bridge over Thornhill Lees Cut) of the Manchester and Leeds Railway Act 1837;

(g) section 33 (no obstruction to be made to the Calder and Hebble Navigation, &c.) of the Manchester and Leeds Railway Act 1837;

⁽³⁴⁾ 1836 (6 & 7 Will. 4) c. cxi

⁽³⁵⁾ 1837 (6 & 7 Will. 4) c. xxiv.

- (h) section 25 (prescribing manner of constructing bridges over cuts in the township of Mirfield) of the Leeds, Dewsbury and Manchester Railway Act 1845⁽³⁶⁾;
 - (i) section 26 (prescribing manner of constructing bridges over the river part of the Calder and Hebble Navigation) of the Leeds, Dewsbury and Manchester Railway Act 1845;
 - (j) section 27 (no obstruction to be made to the Calder and Hebble Navigation, &c.) of the Leeds, Dewsbury and Manchester Railway Act 1845;
 - (k) section 16 (clauses of recited Act as to the protection of the Calder and Hebble Navigation extended to this Act) Leeds, Dewsbury and Manchester (Deviations and Branches) Railway Act 1846⁽³⁷⁾; and
 - (l) section 21 (for the protection of the Calder and Hebble Navigation) of the London and North Western Railway Act 1885⁽³⁸⁾.
- (2) Section 4(2) (power to make railway, &c. according to deposited plans) of the London and North Western Railway (Wortley to Leeds, &c.) Act 1878⁽³⁹⁾ has effect subject to the repeal of—
“Provided always, that the Company shall not enter upon, take, or use any part of the lands numbered 84 on that part of the deposited plans which relates to the parish of Huddersfield, except with the previous consent in writing of William Henry Hirst, his executors, administrators or assigns.”
- (3) Section 22 (for the protection of the Lancashire and Yorkshire Railway Company as to new road at Ravensthorpe) of the London and North Western Railway Act 1885 is repealed and ceases to have effect.
- (4) Section 38 (agreement with Ravensthorpe and Thornhill local boards confirmed) of the London and North Western Railway Act 1888⁽⁴⁰⁾ is repealed and ceases to have effect.

⁽³⁶⁾ 1845 (8 & 9 Vict.) c. xxxvi.
⁽³⁷⁾ 1846 (9 & 10 Vict.) c. cclxii.
⁽³⁸⁾ 1885 (48 & 49 Vict.) c. lxxxviii.
⁽³⁹⁾ 1878 (41 Vict.) c. ci.
⁽⁴⁰⁾ 1888 (51 & 52 Vict.) c. clxxvi.